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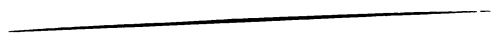


THE PAPERS
OF
T. BARWICK LL. BAKER, ESQ

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THE PAPERS

OF

T. BARWICK LL. BAKER, ESQ

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Alfred Russel Wallace

Portrait drawn by G. Richmond Esqr. R.A.



'WAR WITH CRIME'

A SELECTION OF PUBLISHED PAPERS ON
CRIME, REFORMATORIES, ETC.

BY THE LATE

F. HERWERHILL BAKER

EDITED BY

CHARLES EDWARD VERLEY

LONDON

LONGMANS, GREEN, AND CO.

AND NEW YORK: 15 EAST 16 STREET

1889



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BY THE LATE

Revised
T. BARWICK LL.¹ *Baker* BAKER, ESQ.



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INTRODUCTION.

THOMAS BARWICK LLOYD BAKER died at Hardwicke Court, Gloucester, on December 10, 1886.

In many directions his death left a void that can never be filled, for he was a many-sided man, who brought the influence of his cultured mind and earnest zeal to bear on many subjects. Above all things Mr. Barwick Baker was a man of diligent thought; he sought out the principles that underlay the practical side of every question. A country squire of moderate wealth, he studied the duties incumbent upon him in that station of life; a county magistrate, he felt bound to inquire into the causes of crime, and to use for the benefit of the community the experience gained on the Bench; a Poor-law guardian, he was drawn into personal sympathy with the poor, the outcast, and the destitute.

Before the days of ironclads and steam-engines a thin worsted thread was laid up with the rope made in Her Majesty's dockyards; the colour, only discerned on close examination, marked the Queen's property: through all Mr. Barwick Baker's work there runs a golden thread, flashing out unexpectedly here and there, which marks royal work, and tells of a motive never absent, a motive higher even than duty to a neighbour, or love to a fellow-man. Therefore it came to pass that whatever views he advanced were received with respect, as much by those who opposed as by those who supported them, for no taint of selfishness, either for himself or for his class, could be traced in any of them.

The world is sensibly poorer that we have no longer his wise counsels to refer to, but happily he left behind him a number of

printed leaflets, addressed from time to time through many years to his friends, to the Press, or to philanthropic gatherings. These papers embody his well-digested thoughts on a variety of subjects, and are in a sense the cream of his life's work; to make a wise selection from so large a mass was a difficult task. This volume is not intended in any way to take the place of a memoir of Mr. Baker: papers whose interest is chiefly biographical, and those written in defence of opinions now generally accepted, have been omitted. The aim has been to reprint in an accessible form the chief papers dealing with problems still unsolved, that we may learn the leading principles which actuated him in seeking their solution, and see to it that we ourselves approach them in a spirit not less noble and unselfish.

The papers selected for publication have been placed under twelve heads.

(I.) The first three papers deal with the prevention of crime generally, which was the one great object of Mr. Baker's life: he sought its prevention in youth and in age; he sought it by legislative enactment and by personal influence; by interesting his brother magistrates in the subject, by educating them to study it in all its bearings, and by placing before them in a clear light the broad principles which ought to guide them in so dealing with past crime as to discourage future crime.

Two analogies were constantly present to Mr. Baker's mind. One, that crime is due to a form of mental disease, for which the criminal is not the only person responsible, and that all disease must be combated on scientific principles, dealing rather with the disease than with the individual. The other, that we are at war with crime, and that our forces must be marshalled and disciplined if we are to win the battle. Both these views are brought out in the paper 'How to war with crime,' read at the Bradford meeting of the Social Science Association in 1859.

(II.) The practical measure which Mr. Baker deemed essential to the prevention of crime was the apportionment of sentences to crimes on a scientific principle, which should be clearly understood alike by the magistrate, the public, and the criminal; to this subject he recurred again and again, stating and restating his views in varying forms to arrest the attention of all classes, and to provoke discussion. That prevention, not

retaliation, is the point to be aimed at, was the principle always present to his mind ; and on it he insisted with the dogged perseverance which was one of his strong characteristics. To arrest criminals in their evil courses, he relied upon the effect of what is commonly called 'cumulative punishment,' viz. the system of apportioning punishment to crime rather by the antecedents and number of repetitions than by the heinousness of the crime as judged by itself.

(III.) While he strongly urged a steady increase in the severity of sentences after a second conviction, Mr. Baker always desired to keep open the door of reformation for the offenders ; it was with this view that he greatly favoured and always insisted on the beneficial effects of adding to a sentence of imprisonment a term of police supervision, which he considered not merely a protection to the public, but, if exercised in a kindly spirit, a real help to a man trying to regain his character in honest employment.

(IV.) Under the fourth head are placed three papers dealing with Adult Reformatories, the establishment of which Mr. Baker advocated as an adaptation of the Irish convict system which Sir Walter Crofton had elaborated with such excellent results.

(V.) With his accustomed fearlessness Mr. Baker advocated, under certain conditions, the imprisonment of children, and the results of his experience and inquiries on this subject will be read with much interest, as embodied in the three papers under the fifth head.

(VI.) The economic value and importance of gaol labour are clearly and ably stated in the one paper that is printed under this head.

(VII.) Of the following papers on Reformatories the first, read in the 'Statistical' section of the British Association, 1854, gives an interesting sketch of the rise and progress of the movement which resulted in the passing of the Juvenile Offenders Act, and the subsequent establishment of reformatory schools certified under that Act throughout the United Kingdom. Mr. Baker was foremost in stirring up magistrates in the various counties to avail themselves of the facilities thus given for starting these schools.

He very early began to promote intercourse between those

actively interested in the matter by gathering them together at Hardwicke Court for the discussion of certain definite questions and the general interchange of ideas.

The first of these social meetings took place in 1861.

The enthusiasm for Reformatory work which he and the other pioneers succeeded in arousing seemed likely at one time to result in the erection, out of the rates, of a number of large and costly school buildings. This Mr. Baker regarded as a very unnecessary and hurtful extreme, and he protested against it. He succeeded in averting the danger of the creation of a class of reformatory schools which would have been under the exclusive control of a committee of magistrates, and have become mere public institutions, with a stiff and formal system of management.

To prevent the demand for many and large schools, he was anxious to limit the work of reformatories, as far as possible, to cases of confirmed criminality. Reference to this view of the subject will be found in the paper of suggestions for the conference of managers of schools held at Hardwicke in October 1861. At that meeting the first question discussed was that of committal on first conviction, and the following resolution was passed unanimously by the twenty-one gentlemen and one lady (Miss Carpenter) present :—

‘That, in the opinion of this meeting, it would be desirable that the Home Secretary should issue a general intimation that the allowance will be withheld for boys under fourteen sent on first conviction, except those sentenced by a Judge of Assize, and excepting any particular case the circumstances of which shall be specially represented by the committing magistrate to the Secretary of State.’

From the letter addressed by Mr. Baker, shortly afterwards, to those managers who were not at the Hardwicke meeting, it is evident that some of them expressed objection to this resolution. Nevertheless the rule of not sentencing boys to reformatory detention for trivial offences did, by degrees, work its way into the practice of a majority of the petty sessions throughout the country, through the persistent refusal of the managers of a number of reformatory schools to receive cases of first conviction unless evidence of criminal associations was forthcoming.

At various intervals Mr. Baker took occasion to point out the success attending the work, as proved by the statistics of juvenile crime. If any are disposed to think that there is not nowadays much utility in recalling the early successes of the reformatory work, the answer is that from time to time (even at the present day) people are found to question the wisdom of the existing system, and to call for a more or less complete remodelling of it. Whenever any trouble occurring in a reformatory school becomes the subject of newspaper comments, letters assailing the whole system, with demands for a radical reform, follow as a matter of course. In answering such objectors it may be useful to recall the state of things which demanded the remedy of reformatory schools, and at the same time to show how soon and how effectually they broke up the gangs of young thieves, and altogether lightened the character and reduced the amount of juvenile crime. The letter written by Mr. Baker in 1865 to the 'Daily Telegraph' seems to have been provoked by an early outburst of this spirit of carping criticism, which has since shown so marked a tendency to recur periodically.

In the year 1881 there arose a good deal of discussion about the policy of committing boys to prison for some short term pending arrangements for their admission to a reformatory. The question was debated at January quarter sessions at Chester, at a town's meeting in Manchester, and elsewhere: Mr. Baker adhered strongly to the view that a short stay in prison (fourteen or twenty-one days) should precede the entrance into a reformatory school. The short paper upon 'Lord Norton's Bill' makes this clear.

(VIII.) Effective measures for just dealing with vagrants are as much needed to-day as in past times; the widest distinction exists between the man who travels in order to live and the man who lives in order to travel: the man who at his own cost and risk conveys his labour from a neighbourhood where it is not wanted to a part of the country where labour is in demand deserves sympathy and encouragement. This subject is practically worked out in the four papers printed.

(IX.) The value of the man's work, of his opinions, and of his example, is sometimes brought out most strongly by his

incidental views on questions which he has not made peculiarly his own. The two papers here added give glimpses of the strikingly conscientious spirit in which Mr. Baker approached every question he dealt with. No one can read his papers on 'The Church Conferences' and 'The Public Worship Bill' without noting the large-hearted love with which he claimed brotherhood with all who profess and call themselves Christians. It is remarkable that, while dealing with thorny questions which were exciting high and often bitter feeling, he never wrote in an exasperating or aggravating tone, but always submitted his own views with a fearless humility, whose genuineness disarmed his opponents.

(X.) The two letters on Education, addressed to the 'John Bull,' are full of sound common-sense and practical wisdom: in boldly declaring that he had no fear of 'over-education,' Mr. Baker showed how far he was in advance of many of his contemporaries.

(XI.) The four papers dealing with labour and wages indicate with what infinite thought and pains Mr. Baker had looked into one of the most intricate problems of the day: the facts he marshals are of importance to all who write or speak on these questions, and are well deserving of a place in this volume.

(XII.) Although the Prisons Bill has long since passed into law, Mr. Baker's letter here printed, showing the evils which he feared might result from it, will be of interest to visiting justices, and to all who are concerned in the discipline of our prison population.

CONTENTS

INTRODUCTION	PAGE V
IN MEMORIAM THOMAS BARWICK LLOYD BAKER, HARDWICKE COURT. <i>Reprinted from the Gloucestershire Chronicle, Dec. 11 and 18, 1886</i>	xv

I. PREVENTION OF CRIME.

1859. HOW TO WAR WITH CRIME. <i>Paper read at the Bradford Meeting of the Social Science Association</i>	1 ✓
1868. SENTENCES TO PENAL SERVITUDE. <i>Letter to the Gloucestershire Chronicle</i>	10 —
1867. WHAT BETTER MEASURES CAN BE ADOPTED TO PREVENT	
Sept. 19. CRIMES OF VIOLENCE AGAINST THE PERSON? <i>Paper read at the Social Science Meeting at Belfast</i>	19 —

II. SYSTEMATIC SENTENCING OF PRISONERS.

1863. ON THE THEORY AND PRACTICE OF SENTENCES FOR June 20. CRIME. <i>Letter to the Gloucestershire Chronicle</i>	27
1864. ON THE SENTENCES PASSED ON CRIMINALS. <i>Read at the Meeting of the Association for the Advancement of Social Science at York</i>	33
1865. ON THE APPORTIONMENT OF SENTENCES TO CRIMES	39
1866. RECOMMENDATIONS PASSED AT THE TRINITY QUARTER SESSIONS FOR THE COUNTY OF GLOUCESTER, 1866.	45
1869. SYSTEMATIC PUNISHMENT FOR CRIME. <i>Letter to the Gloucestershire Chronicle</i>	46
Feb. 8. SENTENCES—FOR RETALIATION OR PREVENTION? <i>Letter to the magistrates of the county of Gloucester</i>	54
Dec. 6. 1872.	
Feb. 18. SENTENCES FOR THE PREVENTION OF CRIME	59
1879.	
June 17. JUSTICES' JUSTICE. <i>Letter to the Gloucestershire Chronicle</i>	77
1885. INEQUALITY IN PUNISHMENT	82
1873. CUMULATIVE PUNISHMENT (DRUNKARDS). <i>Letter to the Wilts and Gloucestershire Standard</i>	95
Aug. 23	

III. POLICE SUPERVISION.

	PAGE
1874. LETTER TO MY BROTHER JUSTICES OF THE COUNTY OF Mar. 3. GLOUCESTER	99
1876. April 17. POLICE SUPERVISION. <i>Letter to the Gloucestershire Chronicle</i>	109
1880. June 12. POLICE SUPERVISION. <i>Letter to the Gloucestershire Chronicle</i>	113

IV. ADULT REFORMATORIES.

X 1858. ADULT REFORMATORIES. <i>Paper read at the Social Science Conference at Liverpool</i>	117
1861. SENTENCES FOR REFORMATION AND DETERRENCE. <i>Paper read at the meeting of the National Association for Promot- ing Social Science, at Dublin</i>	124
1868. ADULT REFORMATORIES. <i>Social Science Association at Bir- mingham</i>	132

V. IMPRISONMENT OF CHILDREN.

1861. THE IMPRISONMENT OF CHILDREN. <i>Reprinted from the Mar. 7. Friend of the People</i>	145
1877. Oct. 27. THE PRISON BRAND	150
1880. CHILDREN IN PRISON. <i>Letter to the Reformatory and June 18. Refuge Journal</i>	156

VI. GAOL LABOUR.

1876. GAOL LABOUR. <i>Letter to the Wilts and Gloucestershire Dec. 11. Standard</i>	159
---	-----

VII. REFORMATORIES.

1854. ON REFORMATORY SCHOOLS. <i>Paper read at the meeting of Sept. 26. the British Association at Liverpool</i>	163
Jan. 1858. REFORMATORIES. <i>Letter to the Times</i>	181
1858. THE REFORMATORY SYSTEM. <i>Letter to the Gloucestershire Chronicle</i>	187
1861. SUGGESTIONS FOR THE CONSIDERATION OF REFORMATORY Oct. 1. MANAGERS	195
1861. MEETING OF REFORMATORY MANAGERS AT HARDWICKE Dec. 2. COURT	201
1862. REFORMATORY FAILURES. <i>Letter to the Gloucestershire June 24. Chronicle</i>	213

CONTENTS

xiii

	PAGE	
1862. REFORMATORY FAILURES. <i>Letter to the Gloucestershire</i>	219	219
July 17. <i>Chronicle</i>		
1863. MANAGEMENT OF REFORMATORIES. <i>Letter to the Gloucestershire</i>		
April 18. <i>Chronicle</i>	223	+
1865.		
Nov. 4. REFORMATORIES. <i>Letter to the Daily Telegraph</i>	227	+
1881.		
May 16. LORD NORTON'S PROPOSED BILL ON REFORMATORIES	231	
1885. ON WHAT HAS COMMONLY BEEN CALLED A PENAL REFORMATORY	235	+

VIII. VAGRANCY.

1865. LETTER TO THE GUARDIANS OF THE POOR OF GLOUCESTER-		
Nov. 23. TERSHIRE	241	-
1882.		
Feb. 6. VAGRANCY. <i>Letter to the Local Government Chronicle</i>	246	The
1882.		
March 3. VAGRANCY	249	-
1882. THE WAY-TICKET SYSTEM. <i>Letter to the Gloucestershire</i>		
Dec. 6. <i>Chronicle</i>	255	

IX. ECCLESIASTICAL.

1869. THE CHURCH CONFERENCES. <i>Letter to the Gloucestershire</i>	
Oct. 20. <i>Chronicle</i>	260
1874. THE PUBLIC WORSHIP BILL. <i>Letter to the Wilts and Gloucestershire</i>	
Aug. 22. <i>Standard</i>	264

X. EDUCATION.

1869.	
Dec. 6. TRAINING FOR AFTER-LIFE. <i>Letter to the John Bull</i>	268
1869.	
Dec. 23. TRAINING FOR AFTER-LIFE. <i>Letter to the John Bull</i>	272

XI. LABOUR AND WAGES.

1872. LABOURERS' COMBINATIONS AND THE CLERGY. <i>Letter to</i>	
Aug. 19. <i>the Guardian</i>	277
1875. LABOUR AND WAGES. <i>Letter to the Wilts and Gloucestershire</i>	
June 10. <i>Standard</i>	282
1877. DISTRESS IN THE FOREST OF DEAN. <i>Letter to the Gloucester</i>	
Nov. 24. <i>Journal</i>	288
1885. THE MULTIPLICATION OF YEOMEN. <i>Letter to the Gloucester</i>	
Mar. 17. <i>Journal</i>	292

XII. PRISON GOVERNMENT.

1876.	
June 12. MR. CROSS'S BILL. <i>Letter to the Gloucestershire Chronicle</i>	295

*Any profits arising out of the sale of this work will be devoted to the funds of the National Association of Certified Reformatory and Industrial Schools.
Treasurer, FELIX THOMAS, Esq., Certified Industrial School, Chester.*

IN MEMORIAM
THOMAS BARWICK LLOYD BAKER,
HARDWICKE COURT.¹

By the death, yesterday, of Mr. Barwick Baker this county has lost one who, until length of years and infirmity interfered with his special vocation, was in some respects its most prominent man—one whose name will stand high on the scroll of the great and good men of Gloucestershire. To enumerate all the works of social improvement and public benevolence in the inception and development of which he took a chief part would be a task as beyond the limits of our space as it is beyond our power. Mr. Baker devoted almost the whole of his long and honoured life to the public service. He belonged to that class which a prominent politician once sneered at as those 'who toil not, neither do they spin;' and yet, when the results of his labours are estimated, it will be found that he accomplished infinitely more to benefit individuals, and for the advantage of the nation, than scores who have held high office in the State, and have been 'distinguished by marks of royal favour.'

Mr. Barwick Baker was the only son of Thomas John Lloyd Baker, Esq., J.P., of Hardwicke Court. His mother was Mary, daughter of William Sharpe, Esq., of Fulham, and niece of Granville Sharpe, whose name will ever be remembered in connection with the cause of negro emancipation. Mr. Baker was born in 1807, and married in 1840 Mary, daughter of Nicholas Lewis Fenwick, Esq., of Besford, Worcestershire, by whom he had two sons—Mr. Granville Edwin Lloyd Baker, and Mr. Henry Orde Lloyd Baker, who, with Mrs. Baker, survive him. Mr. Baker was educated at Eton, and at Christ Church, Oxford; he became a magistrate and deputy-lieutenant of Gloucestershire, and was high sheriff of the county in 1847-48. Mr. Baker qualified as a magistrate in 1833, and there are only three justices senior to him in this county.

¹ Reprinted from the *Gloucestershire Chronicle*, Dec. 11 and 18, 1886.

Half a century ago he was appointed a visiting justice at the county gaol, and in this apparently not very important though useful office, held by hundreds of other country gentlemen until the prisons were transferred to the State, is to be found the 'moving why' of his career of public usefulness. In Gloucester Gaol, under the auspices of Sir George Paul, was developed that great work of reform which had been commenced by Howard; the prison became a model for almost the whole world, and delegates were sent from the continent, and from, at that time, very far distant America, to acquire a familiarity with the system pursued here, and to take it back to their own country for adoption. It was at this period that Mr. Barwick Baker became a visiting justice. But he was not a mere casual official visitor, perfunctorily inquiring whether the rules were observed, or redressing the grievances of officers or prisoners. Being brought into almost daily association with criminals, the necessity of making sentences deterrent as well as punitive soon presented itself to his mind as a problem to be solved; to this he devoted years of study and labour; and he lived to see in our system of dealing with criminals many and vast improvements, which he had striven to effect, notably in the establishment of police supervision of offenders after their liberation. Again, it was largely owing to his witnessing young criminals sent to gaol time after time, and thereby educated and prepared for the hulks and convict settlements, that he was led to found—or rather to revive—the reformatory school, out of which has since sprung the industrial school system.

In the administration of the affairs of the county asylums, the infirmary, and our other public institutions, Mr. Baker took an active part. He was a chief founder of the social science congresses; he founded the annual congress of poor law guardians for the West Midland district; and he originated, and for a time carried out in this county, a plan which has become known as the Berkshire system for the suppression of professional vagrancy and the help of the honest tramp in search of work. Early in life he witnessed the suicidal strikes of the cloth-weavers near Dursley—strikes which led to grievous suffering on the part of the workmen and their families, to the gradual decline and ultimate destruction of the weaving industry in that part of the county, and to the impoverishment of the ratepayers in maintaining the belongings of the misguided men who quarrelled with their employers. Thus he spoke with authority and earnestness on trade disputes, and on the almost criminal folly with which they are often accompanied. He

was a warm advocate of temperance, in the highest sense of that word—not of teetotalism, though, as he said, he believed the best side of the public-house was the outside; of frugality, of thrift. As a Churchman, if it be possible to say he belonged to any section, it was to the old historic High Church party, represented by such men as Dean Hook, and in our own diocese by the late Canon Murray Browne, and by the Ven. Sir George Prevost, and a few others still happily among us. He was ready to assist in every true work of the Church, and his contributions to the restoration of Hardwicke, Uley, and other churches were large and liberal. In politics he was by conviction a Tory; as a freeman of Gloucester he bore an active part in our city contests; as a freeholder he upheld the Conservative cause in both divisions of the county. In 1865, at the public nomination, he seconded Mr. Adam Kennard; and in 1868, at the last public nomination, he seconded Colonel Nassau Lees. He frequently attended the meetings of the Working Men's Constitutional Association held at the Booth Hall Hotel. In 1857 he received the sword of a knight of the shire on behalf of Sir W. Codrington, when he was elected unopposed for East Gloucestershire in his absence. In 1859 he seconded the nomination of Sir W. Codrington. But as Churchman and politician, strongly as he held his own views, he equally respected the convictions of others; and among his many friends none more highly esteemed him, none will more sincerely regret his death, than those who belong to other political parties, and who do not share in his religious views.

As a landlord Mr. Baker was greatly esteemed by his tenants for his liberality, and in 1869, soon after the marriage of his eldest son and heir, he was presented with an address and an elegant *épergne* by his tenants, cottagers, and tradesmen, as a 'token of their esteem and regard for a good, kind, and considerate landlord, and their admiration of his unwearied exertions and Christian zeal in the cause of philanthropy.' On the same occasion a diamond ring was presented by tenants' wives to Mr. Granville Lloyd Baker. Mr. Barwick Baker gave generous support to the County Agricultural Society; he was one of the last as well as most liberal of the friends of the Gloucestershire Labourers' Reward Association; he filled his terms of office as vice-president and president of the Chamber of Agriculture, and when health and opportunity permitted he attended and took part in its deliberations. Mr. Baker was also for many years the popular captain of the Gloucester squadron of the Yeomanry Cavalry. But amid all his work he found time for

other and lighter studies. He was a member of the Cotteswold Naturalists' Field Club, and of the County Archæological Society; though we do not remember that he contributed any scientific or antiquarian paper to the 'Transactions' of those societies, he possessed considerable knowledge of natural history, and when the Gloucester Museum was formed he lent for exhibition for years a most valuable collection of British and foreign birds, and wrote for our columns an exhaustive and homely treatise on the collection, with the view of increasing its interest in the minds of the working classes, who used to visit the museum in great numbers when handsome rooms were provided for the reception of the collection by the late Mr. Sydney Dobell. At a soirée of the Literary and Scientific Association, held at the Shire Hall, Mr. Baker exhibited a fine and valuable series of engravings illustrating the history of the art. Mr. Baker was intensely earnest in reference to those great social improvements with which his name was associated. He travelled thousands of miles to be present at the social science, prison, and other congresses; on one occasion, at the request of the Court of Quarter Sessions, he went to Stockholm to represent Gloucestershire at a Prison Congress, which was attended by delegates from almost every country in Europe and America.

The great diminution in crime in recent years testifies to the success of the labours of such philanthropists as Mr. Baker. He had a keen sense of humour, and often brightened up what to many were dull subjects by some quaint observation. During the time he was high sheriff 'the Berkeley family quarrel,' now long forgotten, was agitating the whole county, and the partisans of 'Grantley' and 'Grenville' mustered at a public nomination in the old Market Square at Dursley. Political and personal feeling ran high; the 'jovial Foresters,' arrayed in hostile camps, attended in great numbers, and a riot was anticipated. Mr. Baker put the dense throng into good humour by calling first for a show of hands from all who would help the sheriff to preserve order. Up went every hand from the vast multitude, and when the candidates presented themselves, and cheering and hooting threatened to develop into fierce personal conflict, he speedily restored, if not good temper, at least mutual forbearance, by reminding the contending hosts that they were pledged to support him in preserving the peace and the credit of the county. In his younger days Mr. Baker followed the hounds in the longest and most trying runs; and 'Hardwicke' has ever been a favourite trysting-place with the Berkeley hounds.

Mr. Baker was in the commission almost before any of the present

justices, and down to the end of 1882 he never, so far as we remember, missed attending the Quarter Sessions. Again and again has he been thanked by the court for his public services. His acknowledgments were conveyed in few words; the consciousness of 'something done' as well as 'something attempted' was to him the best and all-sufficient reward. In 1882 it was painfully apparent that his health was failing; and when at the sessions in 1883 his recognised seat was unoccupied all present seemed to feel keenly his absence, and to be impressed with the conviction that the court was incomplete. Since that time he has been confined to his house for long intervals, and though still continuing to take a deep interest in all great questions affecting the country, and occasionally sending a contribution for our columns, he has been debarred from active participation in public business, and the light of life has gradually dwindled to extinction. Last week we announced with deep regret that he was so ill that no hope was entertained of his recovery, and he passed away at two o'clock yesterday morning.

Gauged by his fourscore years, he had lived a long life; gauged by that truer standard, 'He lives longest who lives best,' how vastly greater his age! He goes down to his grave with 'all that should accompany old age—honour, love, obedience, troops of friends:—'

Poor hands and hard find costly flowers to grace
The grave of him whose toiling days were sweet
With kindly love, that crowned and made complete
The life-long labour for his land and race.
We do not praise him, for his deeds shall praise,
Nor grieve we greatly, knowing that the KING
Has called him unto higher ministering
Among the souls that strive in unseen ways
To help the generations, as they climb
The sunward slopes and terraces of time.

We must now speak more in detail of one or two of Mr. Baker's labours.

HARDWICKE REFORMATORY SCHOOL.

The re-establishment of reformatory schools in England is perhaps the work by which the name of Mr. Baker has become most widely known. Nearly a hundred years ago a school for the reclamation of young criminals was attempted to be founded in London, and one or two similar institutions were afterwards started, but from causes into which it is not necessary to enter they failed. Speaking

at a meeting in Gloucester five-and-thirty years ago, Mr. Baker said that the seeing of children in prison time after time had occasioned him great pain, and he had thought much as to whether it could not be remedied. One day the Hon. Miss Murray, Maid of Honour to the Queen, called his attention to the possibility of reclaiming vicious children, and said that if he would bring to her any child that had sufficient strength of character to distinguish itself in vice she had no fear that she should be able to make that child distinguish itself in virtue. She urged him to visit a school then established in London; he did so, and became warmly interested in it. He talked to his friends on the subject of founding a similar institution, but few had the means of taking it up and paying sufficient attention to it. At length, however, he was fortunate enough to enlist the help of Mr. George Henry Bengough, of the Ridge. The school at Hardwicke was commenced in 1852, the first inmates being three young London thieves whom Mr. Bengough brought into the country for treatment. For some time the work was carried on almost secretly, Mr. Baker and Mr. Bengough having misgivings as to their success. But before long the school began to attract attention, and many strangers, among them members of Parliament, visited it. Early in 1854 this paragraph appeared in the 'Times':—

'Hardwicke, in which this asylum is situate, is four miles from Gloucester, near the Gloucester and Berkeley Canal. It is a small brick building, with a few rough sheds round it. At one end of the building is the dwelling of the over-looker, and at the other the apartments of the schoolmaster. There are at present seventeen inmates, who are properly taken care of, and taught and employed. A recent visitor states that when he went there most of the boys were at work at spade husbandry, but two or three were occupied at household work. One was sitting cross-legged, mending his trousers. The history of this boy is a melancholy one. Although only fourteen, he was seven times convicted as a thief in London, and was brought to Hardwicke by Mr. Bengough. The boy seemed willing to answer questions, but did not exhibit the least compunction for his misdeeds. He was neglected by his father, and in order to indulge his taste for cheap theatres he began to rob shop-tills, which soon procured him a cell in Westminster House of Correction. A note is taken of the character and conduct of the boys, and the utmost exertions are used to reform them. The boys have a regular routine of duties to perform, but time is allowed for recreation. They are, of course, instructed in religion. Their studies comprise writing, reading, and elementary geography. On one day a week drawing is also

taught. Their work consists of outdoor agricultural labour, and in wet weather they are employed at basket-making indoors, and some of them at tailoring and shoemaking. They are punished if they behave badly, and rewarded for good conduct.'

Now that reformatories and their work are universally known, there appears to be little of interest in this announcement; but at the time it was published it attracted great attention, and it was probably reproduced in every newspaper in the kingdom. It is almost impossible in these days to realise the extent to which juvenile crime prevailed forty years ago. It was estimated that in London alone there were 20,000 children who lived by pilfering and begging, and of these 3,000 had been taken indiscriminately, and out of these 150 were without parents, 350 had parents who did not care for them, and the rest were sent out to beg by depraved parents. In 1854 meetings were held throughout the country to petition Parliament that Schools of Reformation 'should be fostered and multiplied, for the sake of the varied and valuable experience they are calculated to supply, the individual zeal and interest they call forth, and the opportunity they present for immediately adopting a system of treatment towards criminal children different from the ordinary punishment of adults.' At the meeting in Gloucester to which we have referred Mr. Baker, speaking of the Hardwicke School, said it had so happened that he had contrived to monopolise to himself the credit of the success of the institution, which was very much more due to Mr. Bengough. They believed there was a great work to be done, and that, as far as this county went, they might be the means of doing it; and it was of very little consequence whether the credit attached to one or the other, or to both or neither, so that the work was done. At the same meeting Mr. Bengough said the return from almost every prison showed that a large number of juvenile offenders were committed and recommitted sometimes as many as ten and eleven times each. In his own school some of the boys had been committed seven or eight times, and one boy ten times, having been an inmate of many prisons. Up to that time twenty-three boys had been in Hardwicke School, and so successful was the institution that in 1855 Mr. Baker was able to make the gratifying report that there was scarcely a regular habitual young thief left in Gloucester, Cheltenham, or in the whole county. Since that time many hundreds of boys, from all parts of Great Britain, have passed through the school. All have not done well; but the failures have been very few. Considering the results accomplished, the cost to the public has been utterly insignificant. No

expensive buildings have been erected ; no great and costly staff has been maintained ; the lads have been taught hard, honest work, and so made to help maintain themselves. In 1864 the county contribution to the school, having previously been a shilling a week per boy, was increased to 2s. ; and this rate of grant continued for twelve years, when it was increased to 2s. 6d. per boy per week, at which, we believe, it continues.

Mr. Baker has been able to obtain at the reformatory the help of several county gentlemen younger than himself, but animated by similar patriotic motives. Among these we may mention Sir J. E. Dorington, the present county chairman. There is a small managing committee of twelve magistrates. But the success of the school is in no little degree due to Mr. Thomas Gee, who has been associated with Mr. Baker almost from the day on which the reformation of the young was commenced as an experiment. When the Hardwicke School had been thoroughly established Mr. Bengough went to the aid of the committee of the Kingswood Reformatory ; but his health failed, and he died in Florence in 1865.

Our readers may remember that some years ago we reviewed a little book published in Germany by Professor von Holtzendorff, and afterwards translated by Fräulein Rosa Gebhard, a lady who resided at Tibberton Court, and republished by Mr. John Bellows. The book was entitled 'An English Country Squire, as sketched at Hardwicke Court.' The Professor came to Ireland in 1861 to the Social Science Congress ; there he made the acquaintance of Mr. Baker, the originator and founder of that Congress ; they discovered they had opinions in common on the Irish prison system, and the administration of the Criminal Law. The Professor knew the squire by the fame of his reformatory school, as well as of a reformer of the system of Poor-law relief. The friendship thus formed led to the visit to Hardwicke Court, and the publication of the 'Sketch,' which the Professor intended for his countrymen only, introducing them to a phase of social existence entirely new to them, and to a class of men who perform duties and undertake responsibilities which elsewhere belong to an official agency and are recompensed by State salaries. Speaking to the Professor of the establishment of the reformatory, Mr. Baker said : 'It happened that in the year 1851 I formed a friendship with a young man whose appearance on the scene decided me. George Bengough asked me why I would not make a beginning myself. I answered him that a man was necessary for the purpose who would devote his whole time, his whole soul, and his whole heart to this task ; but that I was not

justified in putting on one side my engagements as a justice of the peace, as a magistrate, and as a poor-law guardian, which would be absolutely necessary. To my astonishment the young squire, who was heir to a fortune of 10,000*l.* a year, declared that, in spite of his youth, he would like to undertake it, if an older man like myself would help him with it. The work was quickly taken in hand, a little establishment was provided, and later on enlarged. He himself, in March 1852, just as he was entering on his twenty-fourth year, selected for his own benevolent purposes three of the worst young criminals in London, who were about to be discharged from prison. George Bengough resided for the first few months in my house, and worked with me. Then he removed to some rooms in the reformatory itself. For two years he worked in the ranks as a schoolmaster. When the undertaking was fully established he left the superintendence of it confidently in my hands. Suffering as he was, he went to Florence. There is no hope of his recovery, and I am expecting daily to hear of his death. Do you understand now that it grieves me when I am spoken of in terms of praise? Do you know another young man who with a yearly income of 10,000*l.* would reside for two years with young criminals, and give them elementary instruction?' The Professor replied that he believed they would have to return to primitive Christianity to find a second example, and perhaps then it would be in vain. 'But,' he added, 'was it not the intensity of your own earnestness that kindled in that young man's heart the flame of a pure enthusiasm?'

'Bengough's work has found its reward,' replied Mr. Baker solemnly. 'Cheltenham alone produced formerly almost as many young thieves as all the rest of the county together. In the year 1852 forty-five boys were imprisoned; four years later fifty-three. After long endeavours we found out who were the leaders and who the apprentices in crime. We caught the two young master thieves, and behold! in the year 1857 only fourteen boys were convicted. Thereupon we turned our attention to the rest of the county with equal success. In the last five years England has been covered with reformatories for young criminals. Investigations of this kind caused a decrease within the same space of time of 6,000 criminals yearly. It is a great thing to rescue alive one human being who has fallen over a precipice, but far greater yet to prevent *two* from falling over the precipice at all. On the whole, I think, on looking back on what has hitherto been effected, that Hardwicke Court has atoned for the sin of those who brought the earlier school of children's friends in London to ruin.'

In the library at Hardwicke Court is a fine portrait by Richmond of Mr. Baker, which was presented to Mrs. Barwick Baker by the managers of English reformatories as an acknowledgment of Mr. Baker's services in rescuing young criminals.

MR. BAKER AS A CHURCHMAN AND A POLITICIAN.

Professor von Holtzendorff records that Mr. Baker, speaking to him of his education, his religious faith, and his work, said : ' I have never in my designs and undertakings limited myself to definite beliefs. My attachment to the Established Church never forbids me, where it is a question of the public welfare, to work amicably as well with Archbishop Manning, the Catholic, as with Mary Carpenter, who is a Unitarian. Must one be narrow-minded because one holds firmly to any particular creed ? I do not suppose that the Established Church is infallible ; I only think that it probably teaches the truth in matters on which I feel myself incapable of thinking out my own conclusions. As a Tory, too, I have followed the same rule, and work with men who at elections vote differently from myself. The bitterness of political opponents, on account of their party views, is to me more hateful than any injustice that could be done to myself. I believe, without any reservation, in the doctrines of our Established Church, which probably represents the purest and most genuine form of Christianity. But far more strongly than in these Church dogmas do I believe in my heart in that which my most inward voice preaches to me as the most essential in all undertakings—in the help and presence of God, the All Wise, the All Good, and the Almighty. How ever could I have worked without faith ? Think of a number of men who are striving for a prize in the same art, in painting, sculpture, or wood carving. Each one brings the best tools and implements to the contest. But suppose one of them has discovered that he is far more skilful than the rest. Can you not fancy him, thus gifted by nature, choosing a blunt and weak tool, and then executing a masterpiece merely for the purpose that all might learn how this work has been executed, not through the excellence of the tool employed, but through the skill of a master's hand ? I am this blunt tool in His hand. Do not say that this is modesty. Quite the contrary ; it is my highest pride. Whatever good I have done comes from an impulse external to myself.'

RESULT OF MR. BAKER'S LABOURS.

Mr. Baker greatly under-estimated the value of his work. But we cannot close these somewhat hastily gathered particulars more

fittingly than by giving in his own words what he regarded as the result of his labours. Professor von Holtzendorff writes :—

‘More than ten years had passed since my visit to Hardwicke Court, when Baker and I were brought together again, through our common interest in the improvement of the prison system. Government officials, governors of prisons, of reformatories, of asylums, and professors of criminal law, assembled in London in July 1872, in order to consult as to the reform of prisons and the principles of penal legislation. . . . The Gloucestershire Squire appeared fortified by a display of triumphant results. Police inspection, for which he had fought for a long time almost alone, had been raised by legislation to be the statute law of England ; the number of crimes since the Act of 1869 was on the decrease ; poor relief without any co-operation of Government, through meetings of poor-law guardians, had been reformed according to Baker’s suggestions ; vagrancy had been restrained in the western counties ; and the supply of depraved children to the reformatories had steadily diminished. The foreign visitors of the Congress heard but little of all these triumphs—of a work of more than thirty years’ labour in the service of prisoners, discharged criminals, and paupers. Baker sat out his ten days without taking his place in the front row, and called out, like an attentive listener, his loud “Hear, hear !” whenever from the mouth of an American, a Frenchman, or German there was suggested, as a theoretical principle or practical result, some measure which he himself, in his county, had long ago put in operation, without having found any authority for it beyond that of his own common sense, his own observations, and his political instinct. He always firmly declined to accept the congratulations of the few foreigners who were aware of his services. He denied that any original idea could be imputed to him which had not previously occurred to some other than himself. But he had no false modesty, for he claimed to possess *one* merit. “I possess, thank God, the patience which in women is called angelic, and which in myself I can only liken to that of the donkey, because I have no talents whatever. With this donkey-like patience I have accomplished one feat that is worthy of imitation. I have obtained a hearing in a cause which the cultivated world does not care to discuss, in the cause of thieves, prisoners, vagrants, and paupers. I attacked the indifferent with zeal and left them no peace. I tormented some thirty great and small newspapers in the capital and the provinces until they put my two hundred and fifty essays, letters, articles, and addresses in print. The doctors may settle whether my fingers have been crippled by gout or newspaper writing.

“It is a feat, of which I am truly proud, to have brought under my hat, so to speak, 518 out of the 648 poor-law unions in England and Wales, by annual invitation of their representatives, progressing from small beginnings to a meeting for consultation as to the steps to be taken in common for the suppression of vagrancy. It took sixteen years' labour to establish these meetings, which I hope will be held regularly henceforth. I began with two neighbouring poor-law districts in my own county. Considering the confusion which results from the local administration of poor-relief which is not under one uniform direction, was not the idea of such common consultation so self-evident that it might have occurred to any child? But to put such simple ideas into practice, where there is no direction from above, but where all depends on mutual agreement and sound common sense, that donkey-like patience is required which most people look upon with a shrug of the shoulders, but which I reckon as true honour to myself.”

There were two or three branches of Mr. Baker's special work of which we may speak a little more in detail than we were able to do last week. In the year 1878 Mr. Baker had a correspondence with M. Fernand Desportes, Secretary to the Société des Prisons, for whose meetings he wrote a paper. Later, when the subject of reformatories began to be taken up in Italy, he wrote an account of the rise of the reformatory system in England for Signor Beltrani Scaglia, the Minister of Prisons at Rome. In 1880 he commenced a correspondence with General Brinkerhoff, of Mansfield, Ohio, which only ended with life. The chief subject was that of police supervision. Only a week before his death Mr. Baker desired that a letter on this subject, which he had not strength to finish, should be sent to General Brinkerhoff, and on the last day but one of his life he could rejoice that he had been the means of assisting in a reform by which 600 men in Ohio were at liberty, earning an independent living instead of wasting their own lives and the public money in prison.

In regard to the reclamation of adult criminals, one of Mr. Baker's cardinal principles was that the chief duty of the police was to prevent crime rather than to detect criminals, and he maintained that under a system of supervision the policeman would become the true friend of the man who, having offended through momentary temptation or dissipation, had been punished, and on leaving gaol strove to regain his character. Nearly a quarter of a century ago Mr. Baker submitted proposals to the Gloucestershire Court of Quarter Sessions to the effect that as a general rule a sentence of

ten days' imprisonment should be inflicted for a first offence, a longer and definite term after a second conviction, and penal servitude after a third. He argued that men were induced to commit theft after theft by the imposition of short and uncertain periods of imprisonment, in which attempts were vainly made by judges and chairmen of courts to apportion punishment to the value of the property stolen without regard to the antecedents of the offender, and also by uncertainty as to what amount of punishment would be awarded for small offences; while the certainty that a long term would follow a second conviction, and penal servitude a third, would have a strong deterring influence. These proposals were opposed by those who regarded 'hard and fast rules' as undesirable if not impracticable; but ultimately, after many deliberations, and after the approval of the principle by the Social Science Congress, the Court adopted the recommendation. Following up this step, the system of police supervision was adopted, but not until after persistent advocacy on the part of Mr. Baker. Mr. Baker also maintained that a man ought not, on leaving prison after punishment for felony, to be allowed to enter the service or the house of an employer who was ignorant of the servant's history; and that in the interest both of employer and convict the story of the latter should be confidentially communicated to the former. This proposal was long and strenuously opposed, and we still sometimes hear of discharged prisoners being 'hunted down' by the police; but it is now almost universally admitted that the system of police supervision works well for the community as well as for those who have broken the law. In Gloucestershire police supervision is carried out with conspicuous efficiency; and the knowledge that almost certain detection with increased punishment will follow upon repeated offences has a greatly deterrent effect, while the cost of prison maintenance has been a good deal lessened.

As to the suppression of vagrancy, twenty-five years have elapsed since Mr. Baker directed public attention to the evils of professional vagrancy. Tramps he roughly divided into two classes: those who travelled in the *bona fide* search for work, and the professional vagrant, who sheltered in the workhouse for four months of the year, and spent the remainder in purposeless wandering, stealing when opportunity offered, begging of everyone, and not unfrequently in rural districts extorting money from defenceless women. To meet this evil Mr. Baker devised a system of way-tickets, by which the seeker for work, who did a fair day's journey, would be provided with food in the tramp ward, while beggars would be rigorously

punished because begging had been rendered unnecessary, and the vagrant would be required to perform a task of work in return for his food and lodging. At a conference of poor-law guardians held in Gloucester in 1866 these proposals were adopted, and the system of relief recommended was established. For some reason it was, after a time, abandoned; but it has now been revived, with slight modifications, under the title of 'The Berkshire System,' and it has been adopted in many of the English counties and in the Principality.

Mr. William Tallack, of the Howard Association, in a letter to the 'Times' says: 'Mr. Baker's extreme modesty and rare unselfishness and disinterestedness have in themselves tended to keep unduly in the background a life of singular industry and beneficence. In regard, at least, to questions relating to the important department of the best methods of the prevention and treatment of crime, it may fairly be believed that no one since the death of John Howard has more perseveringly and efficiently, though unobtrusively, carried on the work which specially received its great modern impulse from that renowned philanthropist. Mr. Baker was eminently cautious and practical, and very slow to form conclusions, though decided in his tenacious adherence to them when satisfactorily established by a long array of experiences and facts. He also habitually tested his theories by their adaptability to the ordinary public business of county affairs and of magisterial and juridical requirements. It was this combination of thoughtful investigation with sound and genial sense which, at various congresses and conferences during a long series of years, caused peculiar deference to be accorded to his opinions, not only by his fellow-countrymen, but by foreigners, and especially by some of the leading jurists of Germany and the United States. Baron von Holtzendorff, of the former, and Dr. E. C. Wines, of the latter country, have each given marked prominence in their valuable works to the observations and opinions of Mr. Baker. It is comparatively seldom that even the "Times" obituary records a death the announcement of which will excite deeper regret or awaken more honourably appreciative memories on the Continent and in America than in this instance.'

Last week we mentioned that Mr. Baker was presented some years ago with an elegant *épergne*. We cannot conclude this record more fitly than by reproducing a portion of his speech on that occasion. 'I have often,' he said, 'when looking around on the portraits hung on the walls of this room, said that, although there was none of those here portrayed who could boast of great antiquity or of a long pedigree, yet there was hardly one among them of

whom I could not tell some good thing that he had done, of which the good had lasted and would last. That has been a very great boast of mine, and a source of much happiness to me ; and I believe the example of those who have gone before me has been a very strong incitement and inducement to me that when I have done with work I might not feel ashamed of myself as of one who had lived without having endeavoured to do something to promote the happiness of those around him. I trust, and I have good reason to hope, that that feeling will not die with me ; and, much as I value that handsome piece of plate as a work of art and as a possession, I hope that as long as it continues in my family it will serve to stimulate every descendant of mine to try and accomplish something for the public good, and to endeavour to deserve the good wishes of all with whom he may be associated. I have looked hastily over the list of the subscribers, and one of the most touching things in connection with the gift is for me to find the considerable number of pence which has been contributed by the poor cottagers and widows. An old widow, who has a hard struggle to live and few to help her, has, I see, given her sixpence. Surely, if I have gained the goodwill of my wealthier tenants, I had no right or sort of expectation to receive anything from the poor cottagers, or from the tradesmen of Gloucester who have subscribed, and whom I have only known in friendship and goodwill. I ought, therefore, to feel very proud of this day, and I know that its memory will not be lost at my death, or at the death of many of those who will come after me. Let me, then, again heartily thank you for this gift—and not for this gift only, but for the forty years of kindness that has existed between many of us. May God's blessing rest upon you all !'

PAPERS

OF

T. BARWICK LL. BAKER, ESQ.

I.

PREVENTION OF CRIME.

HOW TO WAR WITH CRIME.¹

THE system of dealing with young offenders which of late has been generally adopted has on the whole been so successful that I believe many besides myself would wish at least to try whether it may not produce similar results on those of a more advanced age.

This section has now, for the first time, announced as one of the heads for the classification of papers 'The treatment of adult offenders, whether in convict settlements, prisons, or reformatories.' It is, then, surely of great importance that we should consider, and consider carefully, what are the means which have produced the diminution of juvenile crime, and how the same means may be applied with equal success to adults.

I confess I have often been inclined to regret the name which has usually been given to our system. The world judges more by the name than by the fact, and I believe if you were to ask even all those who profess to take an interest in the subject that one-half of them would say that the system which has worked so well consists in taking every bad boy and putting him through a certain process which always makes him quite good; indeed, it only requires to be improved by enabling us to take every boy who was *likely to become bad*, and thus, one by one, extirpate evil from the world. I need hardly remind you, gen-

¹ Read at the Bradford Meeting of the Social Science Association, 1859.

tlemen, that the one portion of this plan would much resemble the scheme of building an hospital to receive all those who were in good health to prevent their falling sick; while the other is like the humane proposal of two men to conquer an army without bloodshed by catching each enemy singly and tying his hands behind his back.

Still, the public will always argue that if the reformatory system has worked well it can be only by the reformation of individuals that the effect can have been produced.

Now, it is most important that we should carefully examine what have really been the causes of our success, and how far we may hope for a continuance of it when differently applied.

I have always believed that our mission was not merely that of improving individuals in detail. Far be it from me to depreciate the value or the honour of such a task, or to say that it ought not to form a highly important branch of the work; but I believe that our mission is both higher and broader.

Our object should be to war against crime, to endeavour to diminish general crime by warring against that temptation which we so earnestly pray that we ourselves may not be led into.

How, then, is this general war to be carried on and made a war of extermination? Not by a separate action on each individual, but by a regular system of which each part should receive its due attention. Our aim must be, first, to reduce as far as
 (1) possible the temptation to the uncorrupted; secondly, to give
 (2) exactly such amount and kind of punishment to criminals as shall be best adapted to promote a cure; and thirdly, when they
 (3) return to society to take care that, especially at first, their temptations to relapse be as small as possible.

Forgive my repeating that we ought to consider, and consider very carefully, what should be our object in dealing with criminals. Hitherto we cannot but feel that it has been 'the vindicating the majesty of the law—the compelling a criminal to expiate his offence by a corresponding amount of punishment,' accompanied by a sort of general idea that this same punishment is the only, or at least the best, means of deterring others from following his example.

Now, as to 'the vindication of the law,' it is a very nice phrase; but as to the expiation of the offence, I beg to deny it

altogether. An offence may be expiated before God by a sincere repentance ; it may be expiated before man by a full compensation to all who have been injured ; but expiation by a forced and involuntary punishment entirely passes my comprehension or belief. So far it is simply the *lex talionis*, or the rule of tit for tat. ' If you hurt me I'll take it out in hurting you again. And is it thus that the majesty of the law is to be vindicated ?

This principle has been of late years universally condemned, yet I think that there are few who have seen much of our courts of justice who will not allow that our sentences are mainly guided by it. It is true that another feeling is strongly mixed with it, viz. the hope of deterrence. This is a sound and good principle ; it is, where successful, a lessening of temptation to those who have not yet fallen. It has been the sole influence to which of late years we have trusted, and there can be no doubt that it has done very much to diminish crime. But though I fully believe that it ought to enter largely into every system of jurisprudence, I think that it requires more care and knowledge of the subject than is often bestowed upon it to use it to the best advantage, and I think that there are other influences quite as powerful that may and ought to be used with it.

To judge accurately what deterrent effect a certain sentence will possess we ought to have a pretty intimate acquaintance with the personal habits and feelings of the criminal class, and more especially to know what really is the punishment which we award, and how it is felt and estimated by the criminal and his associates. Yet how rarely is this knowledge accurately gained ! how often is it not even sought for ! A magistrate who has for some time visited the neighbouring prison *may* possess it if he has taken an interest in the subject. A country gentleman, accustomed as most of us are to studying the habits of the lower classes, would occasionally be brought in contact with criminals ; but a very large portion of us must feel that we know very little of them in any other state than when they are brought before us for trial, and when of course all their thoughts and feelings are as little as possible open to us. We must in no degree measure their ideas by what we ourselves should suffer from a certain amount of punishment ; but we must have considerable experience in the habits and feelings of their own class to judge what

effect will be produced by it, either *in esse* on the convict or *in posse* on his associates. But if such be the case with magistrates, how much more is it likely to be the case with the higher authorities ! I believe there is not a class of men in the world more worthy of all respect, both for high talent and honourable feeling, than the higher members of the profession of the law in England. I believe no men could be more fit to manage a trial—to sift the evidence—to assist a jury to bring a true and fair verdict. But what opportunity have they for knowing either what effect a certain sentence will probably produce on the criminal before them, or—still less—what effect that sentence is likely to produce on the criminals yet undetected, or on the still larger class whom we hope to prevent from falling into crime ? Nay, how often have they an opportunity of knowing when they sentence a man to three months' imprisonment whether he is to pass that term shut up in a large room with twenty more in idleness, or in picking oakum in a warmed and ventilated cell, or in turning a crank, or on the treadmill ?

Were we to ask a barrister of the highest talent and judgment how to cure a disease and prevent the infection from spreading, he would answer, ' Before I can give you an opinion I must not only have heard that certain medicines were good, but I must have tried them, and watched their effect on different constitutions. Before I can prevent a contagion from spreading I must know the nature of the disease itself, and, above all, I must know what is the nature and strength of the remedy I am prescribing.' Yet when that barrister is made a judge he is called upon and obliged to say exactly what dose of an unknown kind of imprisonment is sufficient and necessary to cure the criminal, and to make others fear to follow his example.

But, as I have said, there are other influences which ought to be used with that of deterrence, even were this power made the most of. I do not speak of the improvement in head and heart of the mass of the people by a sound and religious education ; that is a subject belonging to another department. I mean that in our dealing with criminals we have other means of warring with crime ; and if we have the means, we cannot be justified if we do not use them. How then can we do so to the best advantage ?

We must, as I before said, in order fully to grasp the question, consider, first, how to reduce temptation to the uncorrupted; secondly, how to give such amount and kind of punishment to criminals as shall be best adapted to promote a cure; thirdly, how, when they return to society, to take care that, especially at first, their temptation to relapse be as small as possible.

Let us, then, consider these three points. The first has hitherto been aimed at only by deterrence, and no doubt this has done much. Had criminals not been punished, many more would have fallen into crime. But there are other means which we can and ought to employ, especially that of the removal of infection. What is our present practice? A regular thief is frequently brought up with proofs of its being a fourth, seventh, or tenth conviction, and sentenced to three months' imprisonment, although it is just the same sentence which has been tried and has failed before. After every such remedy tried the man has been necessarily turned out again amongst his old associates, some as bad as himself, some but little corrupted. Do you suppose that he will come out and tell all his friends how wretched he has been, and urge them never to risk a similar punishment? or will he not be more likely to brave it out, and tell others not to be frightened at it? If so, your system gives very little deterrence, but very much and constantly recurring contamination, and this very contamination is just the worst temptation to the uncorrupted. Could the often-convicted—the hardened regular criminals—be removed from the yet uncorrupted, would not crime be necessarily diminished? It is true indeed some gentlemen have broached a theory, which one can hardly speak of gravely, it is so absurdly plausible and wrong, viz., that as the supply always equals the demand, so while pockets and houses exist there will always be a supply of nimble fingers and crowbars to pick and break them. They might as well say that the rooting out of the weeds from a ploughed field would thereby create a demand for more weeds to come there, or that the removal from a town of a great number of cases of scarlet fever would cause an equal number of healthy men to be attacked by that disease. The gentlemen apparently forget that weeds, scarlet fever, and criminals are not exactly subjects of demand,

and therefore are not supplied quite so certainly as necessities of life.

If, then, we can gain the two points of deterring the hitherto uncorrupted by a treatment likely to appeal to his peculiar fears, and at the same time guard him as much as possible from contaminating, we may hope for more success in this first branch of our object than we could obtain on the old system.

But our second consideration is, how can we give such an amount and kind of punishment to criminals as shall be likely to promote a cure? What has been our practice in this? We have taken the criminal, we have removed him from his evil associates, we have placed him in a separate cell, we have taught him the rudiments of tailoring, shoemaking, or weaving, or a pretty thorough knowledge of oakum-picking, we have given him books, and, what is better, the services of an excellent chaplain and schoolmaster to direct his use of them. Now all this is good in its way, but is not quite all we want. Tailoring, shoemaking, and weaving are very good things for a man to learn, but they are not the trade at which a prisoner fresh from gaol would be most likely to get employment. Neither are they the most healthy for the body or mind of a criminal. Your regular town thief takes to them readily, but they give but little real employment for his active mind. While stitching at his coat or shoe his thoughts have plenty of time to revert to his former occupations, and to think of his friends whom he left six weeks ago, and amongst whom he hopes to find himself in six weeks more. At night, too, he is less tired and more inclined to reminiscences than is desirable. But the principal evil is that he is kept for an arbitrarily fixed period in a perfectly unnatural state, absolutely removed from all temptation, by way of preparing him for the natural state, with a more than ordinary number of temptations incident to his first leaving gaol. It is as though in an hospital we should give a patient not only the best possible treatment, but keep him in bed till it was deemed advisable to discharge him, and then tell him at once to go to work in wet and cold. The mind, like the body, requires a *gradual* hardening; neither will endure a sudden transition with safety.

This applies with equal force to the third point of our consideration, viz., how, when they return to society, can we take

care that, especially at first, their temptation to relapse be as small as possible?

Our present system of treating adults is, as I have said, to keep them in a square box for a certain arbitrary period, and then to open the gates and turn them adrift into the world to shift for themselves.

Is this a system to benefit either the individual thief or the general public? It is acknowledged on all hands that a discharged prisoner is not the most eligible of servants. Yet we must allow that if he can get no honest means of living he *will* steal, and even while we condemn him for doing so we allow that he *must* do it, and we pity him. What then is the effect? When he is discharged, his hands and muscles soft and unfit for hard work, he seeks employment, either telling or concealing the truth. The number of those who tell the truth is naturally so small that each employer is afraid to be the one to take him, and the man starves or steals. The rest, i.e. those who conceal the truth, are probably taken into employ and very often the master who refuses the truth-telling servant whose history he knew, and therefore knew that he must be cautious in trusting him, takes as an honest unsuspected servant the man who only differs from the first in his having added lies to theft. Can we blame a man who conceals the fact of his having been in prison? Even the highest authorities on the subject tell us that it would be fatal to a man's chance of honest living if the police were to know his history, because they would tell his master *the truth*, and get him turned off. If so, our system is based upon a concealment of truth!!! Is this defensible? Can we sanction that when a man comes out of a cell, warmed and ventilated (till he can scarce breathe), unused to the external air (to say nothing of wind, cold, rain, &c.), with hands and muscles soft and unused to labour, the only trades which he has half learned being tailoring, shoemaking, or weaving, trades at which some inquiry as to character is likely to be made, he should be compelled to take his first step in his new and supposed improved state by a careful concealment of the truth? Is it fair or just to the public that 84,856 men, besides women, should be annually sent forth with the sanction of the highest authorities of Government for their representing themselves as honest and

fit for places of trust? Nay, not only our authorities sanction it, but our old system compels it. Surely it would be much better for the public to take these men willingly, when they would be forewarned and therefore forearmed, than unwillingly, when they encounter the danger without the caution.

X
If this be so, our great desiderata are, first, to deter the un-
contaminated by the dread of such a punishment as would appear particularly repulsive to his feelings (not to the feelings of some clever theorist who has no acquaintance with the class, but assumes that they all feel just as he does), and at the same time to keep him as far as possible from the contamination of old, clever, hardened offenders. Secondly, to work a cure on the prisoner he must not only be punished, not only be taught, but he should be prepared for freedom by being gradually brought into such a state as he is likely to find himself in when discharged, and not be kept in a hothouse by way of preparation for being turned out in a hard frost. Thirdly, when discharged he should be, if possible, provided with means of living honestly without lying, and at the same time the public should be as far as may be guarded against receiving him quite as a man who had never gone astray.

But are these desiderata possible? I think that the system called the reformatory system has exactly done it with boys; and that which is called Captain Crofton's system has done it with Irish convicts; and the system of Sir Joshua Jebb's refuge at Fulham has done it for female English convicts. All are modifications of the same system, and all work well; though in my own opinion the modification of the reformatory schools has advantages over the others.

In them the length of the detention—two to five years in place of three months—has undoubtedly proved a strong deterrent, while the simple physical separation has prevented the contamination of those left. In places where it has worked fully there is not such a thing in existence as a thrice, scarcely as a twice, convicted boy. Secondly, the correction of the offender, beginning with a fortnight or more of sharp solitary confinement, then a long period of hard work, gradually obtaining more liberty and more indulgence as his conduct improves, with a constant liability to a return to prison if he

makes ill use of the degree of liberty he has acquired, is as good a system as we can well imagine to effect a cure and to fit him for a return to the world. Thirdly, when, so far as we can see, he is fit to be trusted, he is not at once thrust out to seek his bread unknown, but is allowed to go on trial to a master, with the knowledge that if he be found not only stealing, but idle, deceitful, or the like, he will be returned to the reformatory. No one can take him in ignorance of his character; he will usually get a hard place, though not so hard as his work at the reformatory, but he will have an opportunity of gaining an honest character that he can show fearlessly and truthfully.

The Irish convict system is nearly the same, only the solitary confinement takes a larger portion of the sentence, and the licence to work in freedom, but under surveillance, is granted for a shorter period; but there are two stages in the gradual progress of liberty between the solitary imprisonment and the licence, viz., the strict hard labour of Spike Island and the freer labour of the intermediate prisons.

The same system has partly been adopted in the English convict establishment for males, where Pentonville forms the first stage, and Portland, Dartmoor, &c., the second; but, unfortunately, the third and fourth stages, viz., the intermediate prison and the licence to work under surveillance, are wanting, and the transition from the strict confinement of Portland to that peculiar state of independence which is caused by having nothing to depend upon is unfortunately abrupt. But the female convicts have the same advantages as the Irish, and the results are proportionably successful.

Gentlemen, if this be true, our duty is not to dwell merely on a school where some individual boys may be reformed, not upon a particular treatment of *convicts* as a matter set apart and separate from those committed for shorter periods, but to look upon the whole of crime, and to endeavour to diminish it to the utmost. If the system which appears natural and truthful has been sanctioned more or less by our convict authorities, both in England and Ireland, if wherever it has been tried it has succeeded just in proportion as it has been more or less fully carried out, if the system pursued with boys be pretty well identical both in operation and success, surely it is now high

time to throw aside the barbarous remains of our old system, and assimilate the treatment of those who now fill our gaols to that which, whether under the name of the Irish convict or the reformatory system, has both the force and reason and the test of experience to prove its efficacy.

SENTENCES TO PENAL SERVITUDE.¹

THE confessions of the armed burglars have naturally excited much attention, and many of your readers are anxiously speculating on that most mysterious question, what does a fifteen years' sentence mean? And is the convict to have a ticket-of-leave and be as free as ever to bore our shutters in five years or ten, or, as he says, twelve years, or will he be kept all the fifteen years in confinement? This is a question which the public is frequently asking, and one on which they have a right to be informed. Yet the 'Times,' the judges, and many members of Parliament still complain that it is a mystery they cannot solve. The most extraordinary part of the matter is that there is no mystery at all. The rules laid down by the Home Office have been duly published, and, I believe, are never infringed. A pardon, indeed, may be granted at any time, and this is a prerogative that we cannot refuse to the Crown; but it is very rarely exercised, and almost all who come out of penal servitude before their time do so on licence or ticket-of-leave.

The terms on which these licences are granted are fully explained in the circular issued by Sir George Grey to all judges, recorders, &c., dated August 15, 1864, stating, amongst other things, that for the future the utmost remission that would be made was one-fourth of the sentence after deducting nine months of separate imprisonment, and, as the above is a complex calculation, adding a table.

¹ Letter to the editor of the *Gloucestershire Chronicle*, Sept. 28, 1868.

SCALE FOR REGULATING THE DISCHARGE ON ORDERS OF LICENCE OF
MALE CONVICTS SENTENCED TO PENAL SERVITUDE.

Term of Sentence	Period to be under- gone in Separate Con- finement	Shortest Period to be undergone on Public Works			Maximum Period to be remitted		
Yrs.		Yrs.	Mths.	Wks.	Yrs.	Mths.	Wks.
5	Nine months in all cases	3	2	1	1	0	3
6		3	11	1	1	3	3
7		4	8	1	1	6	3
8		5	5	1	1	9	3
9		6	2	1	2	0	3
10		6	11	1	2	3	3
12		8	5	1	2	9	3
14		9	1	1	3	3	3
15		10	8	1	3	6	3
20		14	5	1	4	9	3

Thus we find that Messrs. Wilson and Geary will have nine months of separate imprisonment—followed by at least ten years eight months one week on public works at Portland, Chatham, or elsewhere; and if they behave *quite* well, and work very hard (for since 1864 hard work is made an important element in the calculation), they will then receive a licence for the remaining three years six months one week. If they work less hard, or commit any faults, their licence will be proportionally delayed. But this licence is not now, as it once was, equivalent to a free pardon. They must decide to what place they will go. Notice, accompanied by a photograph, will be sent to the Chief Constable of that county, and they will have to report themselves to the police once a month, and will be questioned as to their work and lodging, and the police can easily ascertain whether their account is correct. If they steal, or even if they are unsteady, they are pretty certain, with this watch on them, to be caught and re-committed, not only to the end of their original sentence, but for *as much of that sentence as was due when they received their licence*. But if they go on honestly, they are in no degree hurt or hindered by the watch.

This is another point on which terrible nonsense used to be talked and believed. It was said that discharged convicts would never get employment if they were known, and that therefore we ought to keep them secret, and allow masters to take them in ignorance of their real character, trusting that

their punishment had reformed them. Nothing could be more foolish, or dangerous, or wrong. A man just discharged from penal servitude never ought to be trusted as a perfectly honest man till years of good conduct have shown that his reformation is trustworthy. At the same time a man so discharged ought to have work by which he can obtain an honest living. By the present system both conditions are fulfilled. I have before me a list of the thirty-six convicts discharged in this county since the passing of the Act in 1864. They practically almost always do find work with masters who are aware of their antecedents. Five have been re-convicted, but for slight offences; the rest are mostly doing well.

I should be sorry to vouch that Wilson and Geary when they come out will be found in the latter class. Many think with me that men who have professed to love robbery so much, and to have so little objection to murder, ought never to be quite considered as safe to be at large again.

Will any of your readers care to go a little deeper into the subject, and to inquire *why* they are to be soon free again?

For a long time, when a man did wrong here, we put him on board ship and sent him out to America, and *we were rid of him*—or thought ourselves so. In those days there were no steamers and not many ships, and a man did not easily get back; and if he did, we had no police, and the chances were that he was not found out till he had many years' run of robbery here. [Robberies then were far more frequent than now, but there were fewer newspapers, and they were less known and less thought of.] After a time America refused to take any more, and we sent them to Botany Bay, still farther off. But as steam arose, and more ships passed between England and Sydney, it was found that merely sending them out there was little use unless we kept a staff there to prevent their running back. This was expensive. After a time Sydney would take no more, and we sent them to Tasmania, and then to Western Australia; and even this last resource has failed us. But in addition to all the colonies refusing to take them, there was another objection to continuing the system of transportation which will at once go to the heart of every Englishman. A convict in any

of our colonies costs to us—the mother country—about half as much again per annum as one who was kept at Portland or Dartmoor, and was far more likely to return and rob us again.

They were, it is true, for a short time a help to our infant colonies, but at an expense to England which was unpleasant. This reconciled the few who troubled themselves to look into the subject (and these were very few) to the keeping our convicts in England. But the many only thought of the number of crimes still committed, and naturally and rightly wished to reduce them, but unthinkingly took the wrong means to do it, and entirely defeated their own object.

We must remember that there are two distinct parties concerned in the repression of crime: the judges, including all who pass the sentences, whether recorders, chairmen, or single magistrates; and the executive—i.e. the Home Secretary, the Director of Convicts, and the visiting magistrates or governors of prisons. It has always been an acknowledged maxim that the judicial discretion, so long as it keeps between the very wide limits prescribed by law, must not be interfered with; and not only is there no code laid down as to what kind of cases should receive the maximum and what the minimum punishment prescribed by law, but there has never even been any public or recognised discussion of any principles to be generally adopted. Each judge, or each bench of magistrates, passes whatever sentences they think right, and as we make no inquiries, except in a very few isolated cases, of what becomes of the discharged prisoner, we can get very little of results to show whether our treatment is successful or otherwise.¹

But if our practice is against interference with the judicial

¹ Lest it should be thought that I am quite singular in my opinions let me quote Lord Wensleydale in the House of Lords, April 12, 1864, that 'last year he had proposed that the Lord Chancellor should write to the judges and ask them to meet together in order that they might come to some common understanding in regard to the sentences which should be passed in cases of a similar kind. Objections were taken to that course, but he (i.e. the Lord Chancellor) agreed that the want of uniformity and the lenient sentences that were now passed were a scandal and disgrace which ought to be put an end to. He thought it highly desirable that the judges should agree to some common system in passing sentences.' Several judges have expressed privately the same feeling to myself.

function, it is by no means averse to interfering with the executive, and frequent applications are made, and responded to, to make the punishment more severe.

But as depressing one end of a scale beam, and thereby raising the other, only leaves the average height the same as before, so our pressure on the executive alone tends nothing to increase the punishment of offenders. The judges and magistrates are called upon to consider the case, and to give such a punishment *as they believe* to be equivalent to the offence. I believe that they do so as carefully and honestly as they can, though I have never met with any calculation of the weight of any crime, or the weight of any punishment, to assist in their decision. But if they give what they consider to be an equivalent, as far as they can guess, it necessarily follows that if the punishment be doubled in degree they must reduce the sentence by one-half in length. If this be done the punishment remains the same to the offender, but the public is secured for only half the time.

The history of the alterations in our Penal Servitude Acts is curiously illustrative of the way in which an ill-advised attempt at severity defeats its object.

A circular was issued by Sir G. Grey, June 27, 1857, to all judges, recorders, and chairmen of quarter sessions, explaining the provisions of the Penal Servitude Act. Sentences of three years or more were allowed. Convicts might be sent abroad or kept altogether in the convict establishments of this country. In all cases there would be eight or nine months' separate confinement; then a long period of labour on public works; and then a portion remitted on what was called ticket-of-leave—this latter portion not to exceed one fifth or sixth of a short sentence; in one of from six to twelve years one-fourth would be remitted, and for fifteen years or more one-third. Such remission was intended only to be made on account of good behaviour in prison.

Such was the circular, and, so far as the period granted on remission is concerned, I believe it was always acted on, and the loosely stated stories of men sentenced for ten years and let out on ticket-of-leave in five are entirely untrue. I have inquired into several cases that were so stated, but I never found

one where a convict sentenced for twelve years or less was let out before three-fourths of his sentence was passed.

But in two other points the system was unhappily relaxed. First, nearly all convicts were discharged at the earliest possible legal period, whether their conduct was good or bad (thereby disproving the very fascinating and universally accepted theory that the clever ones get out by 'gammoning the chaplain'—the chaplain could not let them out before the three-fourths were over, and the Director of Convicts ordered them out then); and secondly, the supervision during the remitted period was entirely given up. In fact, a ten-year sentence was simply seven and a half years, differing only in name.

This was bad and useless. Nearly all England cried out against it. The many (who thought little upon it) wished to abolish the remission altogether; the few (who had taken much interest) wished to retain the remission, but to make the supervision effective. The first, had they carried it, would have produced simply no effect, because the judges had all received the circular, and knew the effect of a sentence. If they thought a man worthy of seven years they gave him ten, and he was kept for seven and a half. Had the remission been abolished, they would simply have sentenced him for seven years. To suppose otherwise would be to suppose them incapable of understanding as plain and simple a circular as could well be penned.

In 1863, however, the dislike to the ticket-of-leave system rose very highly, and the Home Office made a concession, and issued another circular, signed by Mr. Waddington, January 27, 1863, reciting the whole of the former circular, but adding that in the case of persons sentenced for a second or any subsequent time to penal servitude there should be no remission.

This, I fear, had only the effect of shortening the nominal sentence of men committed for a second time.

But in 1864 a new Penal Servitude Act was passed, the provisions of which were all intended to increase the severity of the punishment, but some of them were curiously unhappy in their attempts. A new circular, explaining the Act, was issued by Sir George Grey, August 15, 1864 (and published in the 'Times' of August 18), stating—

1. That sentences of three or four years were abolished, and nothing less than five could be given ;

2. That on the second conviction for felony no penal servitude can be given for less than seven years ;

3. That convicts on licence should be under the supervision of the police ; and that if a man on licence be convicted of any offence he will be returned to the convict prison—not merely till the expiration of his original sentence, but for such period as was due when his licence was granted ;

4. That a remission is not to be earned by that indescribable thing called ‘good conduct’—i.e. doing nothing—but principally by real hard work.

5. The scale of remission is here given as above.

6. The report of the Royal Commission is then quoted that ‘sentences for life should only be passed on men guilty of very aggravated crimes,’ and these ‘never ought to regain even the qualified freedom of a ticket-of-leave ;’ and then adding, ‘The courts before which offenders are tried will, therefore, make a distinction between the *most atrocious* criminals and those whose guilt, though aggravated, is one degree less, by passing sentence for life on the former only.’

These were the chief provisions of the Act and the recommendations of the Royal Commission, and I am informed by the Home Office that this is still the rule.

Now let us see the effect of these provisions.

1. The increasing three or four years’ sentences to five years sounds severe ; but it seems to have been forgotten that the new Act did not compel judges to pass severe sentences, and we find that the penal servitude sentences in all England were—

1863.		1865.	
For life	20	For life	4
Above 15 years	31	Above 15 years	22
15 and above 10	81	15 and above 10	75
10 and above 6	570	10 and above 7	250
6 and above 4	705	7 years	1,249
4 years	734	6 years	22
3 years	930	5 years	459
	<u>3,071</u>		<u>2,081</u>

Was this system practically more severe than the former ? Even the imprisonments do not seem to make it up.

Imprisonment for		Imprisonment for	
3 years	5	3 years	4
2 and above 1	1,175	2 and above 1	1,585
1 and above six months	3,664	1 and above 6 months	3,607
6 months and above 3	3,828	6 and above 3	3,571
	<u>8,672</u>		<u>8,767</u>

I should notice, indeed, that the total number of convictions in 1863 was 15,779, and in 1865, 14,740 ; but this will hardly account for 990 fewer convictions to penal servitude.

2. The second head of the circular, 'That on second conviction for felony no sentence to penal servitude should be less than seven years,' appears to have been sharply acted on, as in 1863 the number of 7-10 year sentences was 570, and in 1865 it was 1,499. But the five and six year sentences were in 1863 705, and in 1865 were 481 ; and the 930 sentences for three years were altogether omitted.

3. The supervision. This I have every reason to believe acts admirably. A discharged convict practically always does get work. He knows that if he is dishonest he will be probably caught and sent back. This is a *strong* motive to honesty. But if he continues a year at large, working honestly, he is far more likely to continue honest for the next year, and the next, than if he is turned loose from the convict prison two or three years later, with no hold upon him at all.

4. Remission to be gained by *hard work*. No one who has not had much to do with criminals can appreciate the wisdom of this regulation. A man may be a hypocrite so far as conforming to rules for many years without being much better for it ; but let a man really *work hard* for some years, and he can hardly fail to be fitter to return to society.

But, 6th, the recommendation of the Royal Commission that 'sentences for life should have no remission, and therefore should never be passed,' is a curious piece of severity. The effect was this. In 1861 there were passed sixteen life sentences ; in 1862, twenty-five ; in 1863, twenty ; but in 1865 there were four such sentences passed ; in 1866, two ; in 1867, three.

Is it possible to find an instance of a more futile attempt at severity ?

Had this recommendation not been made, our friends

Wilson and Geary—carrying revolvers and life-preservers, and breaking into houses in this and all adjoining counties (less dangerous probably than they describe themselves, but still skilful and dangerous to a high degree)—would have received a life sentence. They would have been kept, at the shortest, twelve or fifteen years, and for the rest of their lives they would have been perfectly free to earn an honest living, without let or hindrance, but they would have been so liable to ‘inquiries’ that they would have done little harm without being caught. Now, precisely on January 20, 1880, they may come out again; but they will be watched and cannot do much harm before August 10, 1883, but after that no policeman will have a right to insult them by inquiring how they are getting their living.

John Geary gives his age as forty. In fifteen years he will be fifty-five, rather stiff in the joints, and probably not up to burglary. Edward Wilson is said to be thirty-three. When his fifteen years are up he will be forty-eight; still probably young and active enough to do much mischief. Whether he come out three or four years earlier or three or four years later is a trifle. The life of a regular thief between one conviction and another is seldom above three or four years; and whether it occurs a little earlier or a little later cannot much signify. *It ought not to recur at all.* If a man has shown that he is dangerous to the public he ought not to be free again *to be able* to plunder at his discretion. I do not say that he ought to be kept chained up for the rest of his life; but I do most strongly hold that he has forfeited for life the right to be considered as a man above suspicion, who will not bear to be asked how he is getting his living. We see that the surveillance does not prevent men from earning their living honestly; it does not fetter them; they remove from place to place, only giving notice to the police. Is this too hard lines for men who have earned a right to be considered dangerous?

Gloucestershire has taken the lead in many good things. Will it now take the lead in memorialising the Home Secretary to abolish these futile and abortive attempts at severity, and to adopt measures more really severe, more really repressive of crime, and such as will give more protection to the public? If so, we should ask for a *far* longer portion of the sentence to

be remitted, thereby inclining judges to lengthen their sentence in proportion ; and, above all, a promise that men sentenced for life shall have remissions in twelve years or so of good conduct and hard work (I should be most glad if it were in ten or eight years), but should be kept under careful surveillance for life. X

**WHAT BETTER MEASURES CAN BE ADOPTED TO
PREVENT CRIMES OF VIOLENCE AGAINST THE PERSON? ¹**

YOUR committee has selected as the first of its subjects of discussion 'What better Measures can be adopted for the Prevention of Crimes of Violence against the Person?' The reply appears to me so simple as hardly to admit of a doubt. We must teach the public to think that injury to the person is more serious than injury to the purse ; that life is dearer than money, and that our limbs are of more value than our shop goods.

All our theory of law tells us, indeed, that this is the case. In such trials as affect the purse only the law may be construed liberally ; but in criminal cases, where the liberty or life of the prisoner is at stake, it must be construed with the utmost strictness, and every care be taken not only that an innocent man should be acquitted, but that even where there is no moral doubt of a prisoner's guilt he shall not be punished unless every minute form of law shall have been complied with.

The judge of the Nisi Prius Court, who tries mere cases of property, appears in a simple black gown ; but he who tries the sacred liberty or life of the subject assumes the dignity of scarlet and ermine. Yet what lawyer is ever selected for the high office of judge on account of his practice in the criminal court, or of his knowledge of the feelings of the criminal classes, or of what punishments would be most likely to deter them from crime? Few, I take it, who attain that dignity have ever held a brief in a criminal court since they were thirty years of age. Nay, it is so *infra dig.* for a Queen's Counsel to hold a brief in the Crown Court, where in theory the most important business is transacted, that he cannot do so without a special retainer.

¹ Read at the Social Science meeting at Belfast, September 19, 1867.

It may, indeed, be said that public opinion is at times manifested against crimes of violence with abundant strength. In the garotting days, and again in the extraordinary outbreak of the London roughs last June, the strongest, I may say the most violent feeling was aroused. Revolvers and stilettoes of strange devices were at a premium, and there was more danger of an honest man being shot or stabbed by a timorous gentleman than of his being garotted by a rough. Yet the fashion of terror passed away as quickly as the fashion of garotting; and public opinion was content that the knocking down of an old man and kicking him about the head and face till he was insensible¹ should be met by two months' imprisonment, while the stealing 1*l.* worth of goods from a shop would entail a three months' sentence.

But it is constantly said that public opinion must be respected, and that we cannot fight against it. Pardon me if I think differently. Public opinion may be, and often is, erroneous, and will continue so till the truth be steadily and continuously asserted. But the special value of such an association as this is that it may calmly and steadily keep the truth in view, and if it do so, there is no fear but that public opinion will soon recognise and adopt it.

We must remember that in all matters of crime and punishment our object ought to be—not the measuring out of exactly so much punishment as shall atone for the degree of criminality displayed (as if it were possible that punishment could atone for crime), but the giving such an amount and such a kind of punishment as shall prevent the criminal himself from repeating his offence, and prevent others from following his example. A question is sometimes raised whether we should consider more the good of the criminal in promoting his reformation, or the good of the public in preventing future crime. I believe that the latter is by far the most important, including, as it does, in 'the public,' not only the honest who may be

¹ Vide *Times*, June 25, also *Standard*, September 9:—

² JUSTICE OF THE MIDDLESEX SESSIONS.—*To the Editor*.—Sir,—The following remarkable specimens of British justice presented themselves at the sessions within the present week:—For stealing a quarter of a ton of coals, three months' imprisonment; for kicking a man's eye out, ditto.—I am, Sir, your obedient servant, ONE OF THE GRAND JURY.'

robbed, but those of infirm honesty who may be led into crime. If so, our object ought to be to give just that kind and degree of punishment which shall prevent future crime, while it inflicts no more pain than is necessary for that purpose on the offender.

In crimes of violence we must remember that there are two widely different classes who must be separately considered:— 1st. Those who, without any preconceived intention of wrong, have for the time, either from anger or drink, lost their reason, and commit assaults more or less violent, and with more or less of provocation. 2nd. Those who deliberately use violence either for the purpose of robbery, or in order to rescue some associate who has been, or is likely to be, caught in a crime.

For the first of these classes we cannot help feeling much pity. In some cases the anger has been provoked by causes which almost or quite morally justify the force used; and even where the violence is out of all measure to the provocation, it is often rather the infirmity of one who is ordinarily gentle and well-disposed until his reason is swept away by what is called an ungovernable outburst of passion. He has become for the time a lunatic, and it is the fashion to state that, as a lunatic has no restraint over his own actions, he ought not to be punished. This excuse holds equally with the man who, with no evil intentions, sits down to drink, and is not even conscious how his reason gradually ebbs away till he rises a madman, and—as a madman—commits a crime from which, in his sober senses, he would have shrunk.

I believe that it is the consideration of such crimes as these that has induced the public to think less of assaults than of simple larceny; especially where retaliation is considered to be the reason for, and measure of, punishment. We cannot justly retaliate upon a man who intended no wrong, and we therefore consider him as an unfortunate lunatic, who is in no degree answerable for his actions.

Pardon me if I demur even to this latter assertion. Hardly any lunatic is altogether unable to control himself, and can therefore claim some responsibility. In the lowest wards of an asylum you will see an absolute maniac threatening violence. One of the keepers gently, yet firmly, tells him that if he be not quiet he must shut him into his cell, and the simple fear of

being so shut up gives him strength to command himself and be quiet. If this be so, even with a lunatic of the lowest class, it shows that all have some power of self-restraint, and therefore have more or less of responsibility. A man of violent passions, or a man afflicted with an overwhelming propensity for drink, may have less power of restraint than the more coldly constituted or more sober man; yet none can have a doubt that if all penalties were removed from passionate or drunken men, their crimes would increase to a fearful degree.

But, as I have said, our object is not retaliation for moral guilt, but the preservation of the public safety. We do not, even in theory, confine a lunatic as a punishment; we only keep him under care to prevent his injuring the public. The class I am now speaking of hold a station between that of the lunatic and the more sane portion of mankind, and ought to be dealt with in such a way as shall protect the public. I believe it will be found that the statistics of assaults are very similar to the statistics of larceny in this point, viz., that out of every four or five men who are once punished for committing an assault, not above one has to be punished a second time; but of five who are so punished for a second offence, two out of three are convicted a third time, and the more often they recur, the less is the chance of preventing their recurrence for the future.

If this be so, surely common-sense points to the remedy. A large portion of this class are ordinarily harmless and inoffensive people. To such the mere fact of conviction, with the slightest judicial sentence, is punishment enough to make them restrain themselves for the rest of their lives. But for those who will not, or cannot so restrain themselves, it is necessary, both for the public welfare and their own, that a longer restraint should be imposed, which may both protect the public from their present dangerous condition, and give the prisoners leisure to overcome their propensities.

Now, where we find that nine, ten, or thirteen previous convictions for assaults are proved against a prisoner, it cannot but be considered as a blot on our system. If a man is once unable to control himself, it is well worth trying whether a slight and cheap punishment may not give him control of his actions for the future. If he be told that on his next conviction a *very far*

longer sentence will be given, it will give him greater powers of control. But if these fail, he must be treated either as a hardened offender who, in spite of all warning, *will* continue to disturb the peace to which the public are entitled, or as a lunatic, who must be kept in safety. If such a course were adopted as ten days for a first, even though rather a serious assault, three months for a second, and twelve for a third, there would be no such thing as a man thirteen times convicted; and a far smaller number would have to be punished at all.

But the class who commit crimes of violence for the sake of robbery, or to rescue prisoners, are of a different kind. Here we have little commiseration, excepting such as we must feel for all our fellow-creatures who, from want of education (by which I mean not reading and writing, but education in steady work and honesty), have fallen into crime. Living, as I do, in the country, I have had little personal knowledge of men of this class, but there appear certain curious facts about them in which one can hardly be mistaken.

I think it will be found that fifteen years ago a large number of watches, purses, and the like were lost without the owner being in the least aware how they had been taken. Some quiet well-dressed stranger accidentally had stumbled against him and profusely apologised, and the purse was gone. Boys from thirteen to fifteen years old were especially handy in this work; and I knew one who never went out without two respectably dressed men walking before him, and a boy or two following to take whatever he stole. Now this has nearly ceased. I have not seen a boy in Coldbath Fields Prison since about 1860 or 1861, who had a hand that *could* pick a pocket skilfully. As soon as it became the common practice of magistrates to send all boys to reformatories on their second convictions, the highly skilled thieving became impossible. No boy could attain any proficiency before he was caught a second time, and twelve months' hard work in a reformatory ruined for ever the delicacy of finger necessary for a pickpocket.

I much doubt whether we are not paying for our immunity, or nearly so, from the skilled pickpocket by the rare but serious outbreaks of garotting and robbery; but I believe that the same remedy will be found efficacious.

This class of crimes of violence, if they are in no degree crimes of passion, are most curiously crimes of fashion. The garotte was never heard of in England till the autumn of 1862. On a sudden it became the fashion, and the streets of London were rendered unsafe for months. It was not that the thieves of London suddenly became more wicked, but a new form of obtaining money had been discovered, which did not require the long apprenticeship of pocket-picking, or the peculiar delicacy of finger, but which any strong and resolute man could acquire in a week's practice, and might carry on with the aid of only two sneaks or cowardly fellows to keep watch at the ends of the street. There was no wonder that it spread quickly amongst those who had been for years used to thieving in one way or other. Occasionally, indeed, a garotter was found who was not known to the police, but it never appeared to be the custom to make much inquiry as to his previous life.

In the same way the fact of the City Militia marching last June with its band, and drawing a crowd of people round it, appeared suddenly to suggest an easy opportunity for plunder, and at once all the roughs in London took up the fashion, and wherever a band playing, or a target for shooting for nuts, attracted a crowd, a dozen roughs were found knocking down and robbing men in open day.

The histories of these two outbreaks appear to suggest two remedies to be looked to in future. In the first place, crimes of fashion—of sensation, to use the phrase of the day—will be most easily met by a sensational remedy. My friend Mr. Adderley's bill for flogging garotters was a measure which might probably be used with great advantage, and a single flogging might probably put a sudden stop to a violent outbreak. Its failing, however, is that it must be very rarely used, or it would do far more harm than good. One severe flogging given to boy or man will often check his evil course. If it fail to do so, and a second flogging is tried, it is an even chance whether it do more good or harm; a third or fourth will do only harm. So with the body of roughs. If one or two of the desperadoes of the 3rd of June last had been subjected to Mr. Adderley's treatment, it might not improbably have struck a panic through the whole body, and prevented the subsequent

robberies; but were such a punishment inflicted often, the roughs would be only rendered more brutal.

The thing which I believe really did stop the garotting was not what we should consider a sensational matter, but to those concerned it was eminently so, though the public scarcely knew that anything had been done. It was suggested by Mr. D. W. Harvey, in a letter to the 'Times,' dated Nov. 8, but was not carried out till some time afterwards. The police were instructed to go quietly round and call upon all the ticket-of-leave men known to be in London. (These men, by the mistaken policy of that day, were supposed not to be watched by the police. Happily they were so, or our crime would have been doubled.) They informed them that they were known, and that if the garotte continued they would be looked up. The effect, spreading through every thieves' den in London, was sensational in the highest degree. There was a sudden stop to garotting, or only an occasional attempt by some outsiders; the public or the press turned their attention to other matters—the former happy to forget its fears, the latter having some newer excitement to turn to—and the garotte fever was at an end.

At present, happily, ticket-of-leave men of the old, partly fabulous description, are, as a cause of terror, things of the past. A ticket-of-leave man under the surveillance of the police is, perforce, as quiet and peaceable a subject as most that her Majesty possesses; but the fact of close connection shown between the former convicts and the garotters—I may add the numerous previous convictions brought against the roughs of last June—all show that the brutal robbers are usually men who have been often previously convicted. Some forty years of pretty intimate acquaintance with a good many criminals has made me feel most strongly the evil caused to the prisoner himself, and to society, by a series of short imprisonments.

Who does not know, who can doubt, that a ten times convicted offender is rarely otherwise than a danger and a pest to society, either by his skill or by his violence? But why should a ten times convicted offender exist? There are now none such amongst our boys, where there used, ten years ago, to be hundreds. There can be none such where it is a rule to send every second conviction to the long sentence of a reformatory.

This system lowered the crime of boys from 14,000 to 8,000 in four years, and has reduced crimes of skill to zero. Yet if it be proposed to adopt the same system with men, which would reduce equally the crimes both of skill and violence, we are told that it would be an innovation, and would not leave that ample discretion in the hands of the magistrate which is so essential to his dignity, and to the meting out of an exact amount of retaliation by which each offence ought to be atoned for.

The exact value of this argument I will not here attempt to estimate, but I take it to be a simple fact that were more pains taken to ascertain the previous character of prisoners (as is done in Gloucestershire and some other counties with little trouble and excellent effect), and were eighteen or nineteen out of every twenty proved first convictions to receive a very short imprisonment—say ten days—with a warning that if caught again they would be imprisoned for twelve months, and if a third time they would be sent to penal servitude for seven years—were such a system, I say, adopted, the *necessary* consequence would be that a ten times or a five times convicted offender could not exist, that a really skilful housebreaker could not exist, and that the hardened and brutal robber would not be likely to exist.

II.

SYSTEMATIC SENTENCING OF PRISONERS.

ON THE THEORY AND PRACTICE OF SENTENCES
FOR CRIME.¹

WHILE spending a few weeks in London I have had opportunities of talking to many M.P.s and others on a subject on which, as you well know, I am only too apt to talk *usque ad nauseam*, viz., the treatment of criminals; and I have been much pleased to find that though the subject is now less often discussed than formerly, and the press is nearly silent on it, yet the interest appears only dormant for the time, and awaiting with *moderate* patience the forthcoming report of the Royal Commission.

What line this report will take none of course can guess. Some think that it will be 'a very mild affair;' others expect that they will recommend that blue jackets should be substituted for the grey ones, and pigtail tobacco served out instead of shag; but all agree that the present plan is bad, and that if some approach to the Irish system be not made, the Commons, and the Lords too, will ask 'to know the reason why.' Many acknowledge Sir J. Jebb's merits as an old and long-tried public servant, and the debt we owe to him for having abolished the frightful evils of the old hulk system; but they justly say that the debt, if due, should be paid by pensions, by honours to any amount that may be requisite, but not at the expense of fostering and increasing the crime of the country. But withal there appears both in press and public a strongly increasing disposition to question not only whether the present mode of carrying out the sentences of judges and magistrates be the most satisfactory possible, but also whether those sentences themselves be the

¹ Letter to the editor of the *Gloucestershire Chronicle*, June 20, 1863.

best adapted for the repression of crime. As this latter subject appears to be now fairly on the tapis, I should like to ask the attention of your readers to the subject.

In our county we usually adopt what some even call the Gloucestershire rule of action. Ask a man, 'Why do you do so-and-so?' and the answer usually is 'Please, sir, 'cause we be used to do't.' A very good rule this is, too, if it be taken *generally, not universally*. The very fact that we have been 'used to do't' for ages is good *prima facie* evidence why we should continue to 'do't' till some strong reason is shown for our changing it. It is for your readers to consider whether my reasons are strong enough to warrant the suggestion of a change.

The theory has been nearly universally accepted that we punish in no degree from revenge or with reference to the past, but solely for the purpose of preventing crime for the future. It is fully allowed that it is no benefit to us, and that we have no right to punish a man *because he has* done us an injury; we punish him in order that he and others may be prevented by deterrence or reformation from doing the like again. If this be so, our sentences should surely be measured by the effect they will produce on future crime, rather than by carefully balancing them against the injury which has been inflicted on others. Yet what is the usual course? The accused is brought before a judge or magistrate: the former never, the latter rarely, knows anything of his previous character. Evidence is produced to prove *whether* he committed the crime, and the judge is left to guess *why* he committed it. The accused may bring forward evidence of his good character, but it would be considered cruel if the prosecutor or police were to bring forward evidence of his bad character. Every evidence in his favour receives the strongest weight; any evidence against him, except with regard to the present crime or a previous legal conviction, is repressed lest it should *unfairly* bias the decision of the magistrate. This curious piece of humanitarianism must surely have been suggested by the ancient figures of Justice, with a balance to weigh each case accurately, and a bandage to prevent her seeing which way the scales inclined. Surely in the nineteenth century we ought to have learnt that Justice should not

be blind, but as clear-sighted as possible, and that she requires every evidence that can be obtained to show her not how to weigh out an exact retribution for injuries past, but how to prevent the recurrence of such crimes for the future.

Again, it is considered of great importance that those who decide the sentence should be persons of great talent and experience, in order that they may weigh out the exact proper amount of punishment. Great discretion (as it is commonly called) is left in their hands. All the weightier sentences are reserved for the judges, who probably are in the present day as talented and as high-minded a set of gentlemen as any country of the world ever produced. No pains are spared to secure—what?—an exact amount of retaliation for wrong done. But no judge and few magistrates have ever had their attention called to the question, what are the opinions and feelings of the criminal class on this subject, and what punishment will be most likely to produce an impression on this class so as to deter them for the future?

Again, it is the fashion to say that reformation, at least among adults, is hopeless, and that deterrence is all we have to trust to. If so, a curious fallacy appears. We punish to deter future criminals. But a man will not be deterred unless he has at least a fair guess at the consequence of his crime. Now all say that a judge of high talent would be better able to decide a proper amount of punishment for an offence than a common average justice of the peace. The justice would surely be more fit than the honest grocer who furnished the tea for his worship's breakfast; yet the grocer would be more capable of arriving at a proper decision than the poor uneducated brother of the thief in the dock. In fact, if a proper and just sentence is to be fixed, no one would be so unlikely to know what it ought to be as the last-mentioned person. Yet he alone is the one whom the fear of the sentence is intended to affect. We do not seek to deter the judge, the magistrate, or the grocer. Whether they can estimate and appreciate the punishment as a consequence of the crime is immaterial; the object is not to exercise revenge on the thief himself, but to deter him and those of his own class from committing future offences. If so, is it not of the utmost importance that they—the future probable criminals—should be

able to foresee the punishment before they commit the crime? But if it requires talent and experience to decide on the punishment of a past crime, how can the ignorant and inexperienced man who is meditating his first crime guess at its probable results so as to be deterred by them?

Yet we are told that it is of the greatest importance that when a judge has passed a sentence it should be exactly carried out, because it is the certainty of the punishment which has the deterrent effect. But whom is this certainty intended to deter? Is it to deter the man who has been sentenced from committing more crimes before he is let out? The certainty talked of is a certainty to no one else. The deterrence we want is one that shall deter a man from commencing a crime. The certainty must therefore be a certainty—or something like it—before he offends, of what degree of punishment will probably follow the offence. But a man yielding to temptation has little idea what will be the exact degree of crime into which he will be led. He intends to steal but a little, with the hope that his punishment will therefore be little: he finds much, and he takes it; or he finds resistance, and he uses violence. In the heat of the moment how can he calculate chances? He has then begun to steal in the hope of almost impunity, and he finds himself let in for a punishment on which he could not calculate, and which, therefore, did not deter him. He is heavily punished *for what he has done*, in a way which will but little deter him or others from doing the like again. The punishment is carefully suited to retribution for the past, but is inefficient for prevention for the future.

If I have made myself understood, it appears to me that I have given sufficient grounds for an exception to our old rule of 'doing as we be used to do;' if so, the question arises, can we find a better system? I think we may.

Notwithstanding all that is said about the impossibility of reformation, nobody who has looked with any care at the subject can doubt that out of all those who are convicted for a first time not one-half are again brought before a magistrate. Of those convicted a second time a much larger proportion will recur; and when it comes to fifth or tenth convictions, I grant that the chances of reformation are but small. Again, a thief

committed for a first time is rarely either skilful or hardened. After many committals he becomes both one and the other, and, what is yet worse, his success is a temptation to others to follow his example. If, then, we can prevent the existence of the skilful and hardened, often-convicted offender, we save the honest public from *skilful* theft; and we save the doubtfully honest from the temptation and instruction of a dangerous leader.

If, therefore, it could be adopted as a general rule that the severity of a sentence for theft should depend not on the amount stolen—not much even on whether it was stolen from a master or from a stranger—not much even on whether it was stolen out of a cottage, by breaking a pane of glass (*i.e.* housebreaking), or whether it chanced to be half an hour after sunset (*i.e.* burglary), but upon whether it were a first, second, third, or fourth offence, I think we should have achieved the greater part of our object. Were a first offence met by ten days' imprisonment, the inexperienced and unhardened culprit would not have time to become accustomed to prison, or to become unfitted for work, and would in many cases be received again by his employer, and the magistrates would hear no more of him. But should he be tempted to err again, he would have the strong and wholesome deterrence of knowing that his next sentence would be one of from six to twelve months. On a third conviction I should like to see penal servitude almost invariably inflicted; and on a fourth let the sentence be penal servitude for life.

It may be said that the deterrent effect on first offences will be too slight. This, however, will not be the case. A man who is new to prison dreads not so much the length of the imprisonment as the fact of his being found guilty. He has a vague idea of the horrors of the prison, and a feeling that he will never be the same man again. A man who has been twice in prison, for three months each time, cares very little indeed how often he goes there again. But if he has been in prison for ten days on bread and water, he will neither like the idea of a future imprisonment nor forget the past; and if he be tempted to fall again, a prospect of six months' imprisonment will be a most powerful restraint. He will no longer flatter himself that he will steal 'just a very little,' and escape with almost im-

punishment, but he will know with tolerable accuracy the result of his next conviction.

But it may be said that this will often be too severe, that it would be preposterous to award a six months' penalty for a sixpenny theft. I think that this is not the case. Our object is allowed to be, not retribution on the offender, but prevention for the future; and even were it otherwise, the amount stolen is more a matter of chance than design. Besides, he will have sinned with his eyes open, and with a knowledge of the consequences; while at present he is taught to believe that the severity of his sentence will depend upon what sum of money he has the luck to get hold of.

But there will always be some who are so bad (or, far oftener, so weak) that they will not or cannot resist falling again and again into crime. If so, it is both the interest and the duty of the country to prevent such a repetition. If a man be too wicked to live honestly after repeated warnings, he richly deserves severe punishment; if he be too weak to resist temptation, it is the duty of the State to keep him out of it, as well as to prevent his injuring others. If, then, he reach the third or fourth convictions, entailing penal servitude, it is not that the judge is harsh, but that the criminal with his eyes open deliberately sentences himself.

From all that I have seen of prisoners, through thirty years' work, I am convinced that such a knowledge of the future sentence would have an infinitely stronger deterrent effect than any severity which could be adopted after the offence is committed. I am by no means urging that a reconsideration of the treatment in penal servitude or county prisons is unnecessary. I believe that both require great alteration. But I believe that no severity which can be adopted in either—no, nor yet Mr. Adderley's Act for flogging garotters, though I think that a good deterrent measure—would have anything like the deterrent effect of being able to calculate with tolerable accuracy what punishment would follow the next offence.

Of course, in this system, as in all others, there must be some exceptions; none would propose that a first crime of murder or other heinous offence should be lightly dealt with. I speak of the crimes which form nine out of ten indictable offences, and 99 out of 100 summary ones. In a few cases a heavy first of-

fence might be classed as an ordinary second, third, or fourth would be; but these would be rare exceptions. A vagrant who could or would give no account of his previous character might be always classed as a second or third offender. But with a few such exceptions the system might be carried out.

Above and beyond all, it would prevent the possible existence of your present race of six and eight times convicted offenders, hardened by an unmeaning repetition of three months' sentences which have no deterrent effects for them, and which only fit them for convicts too bad to send to any other country—too dangerous to liberate in our own; and (the next time the public takes an economical fit) too costly to keep in confinement.

ON THE SENTENCES PASSED ON CRIMINALS.¹

IN the House of Lords, on Tuesday, April 12 (as reported in the 'Times' of April 13 last), 'Lord Wensleydale said that last year he had ventured to propose that the Lord Chancellor should write to the judges and ask them to meet together in order that they might come to some common understanding in regard to the sentences which should be passed in cases of a similar kind. Objections were taken to that course; but he agreed that the want of uniformity and the lenient sentences which were now frequently passed were a scandal and disgrace which ought to be put an end to. (Hear, hear.) He thought it highly desirable that the judges should agree to some common principle in passing sentences.' When a man of the rare talent and experience of Lord Wensleydale uses such strong language with regard to the sentences passed by judges, I trust that a magistrate may, without presumption, ask his brother magistrates to consider whether some improvement may not be made in the principle on which these sentences are usually passed.

I must premise that in the present paper I only attempt to deal with crimes against property. Offences against the person, whether trifling assaults or murder, are usually the effect of

¹ Read at the meeting of the Association for the Advancement of Social Science at York, on Tuesday, September 27, 1864.

passion, not habit; and it is against the habitual offender that I would propose to wage literally a war of extermination.

For many years the *mode* of inflicting punishments on criminals has been the subject of anxious debate, and systems deterrent or reformatory, mild or severe, have been keenly discussed and laid down in codes of inflexible rules, which were to fit all persons, all minds, and all temperaments that were subjected to them with equal precision. But though the quality of the medicine has been most accurately defined, the quantity has been left to the discretion of the committing magistrate, without even a discussion on the general principles which were to be followed. The law has indeed defined certain limits which were not to be passed, but these limits are so wide as to afford little guidance, and the individual will of the magistrate has within the legal limits the sole and almost irresponsible decision.

I believe that generally our judges and magistrates are as worthy of all trust as the individual members of so large a body can possibly be; but the very fact of their number precludes the possibility of their all being of one mind, unless indeed there are frequent opportunities for discussing the rules by which they may regulate their action. Yet for many years it seemed to be considered almost an impiety for any one to venture to question the perfect wisdom of any sentence which might be passed. Of late, indeed, this feeling has disappeared, and it is rather the fashion to make a merciless attack upon a judge or magistrate who passes any sentence which may not be in exact accordance with the opinion of any writer who may or may not have been present. Yet even this phase, though very objectionable, I hold to be less so than the former want of interest. With so large a body of magistrates as are called upon to apportion punishment to crime, it is most important that some general principles at least should be adopted, and that sentences should be open to discussion, not by way of vilifying the magistrate who may have passed a wrong one, but by way of eliciting opinions as to what sentence would be more serviceable.

I assume that it will be generally allowed that the chief object of punishment for past crimes is to prevent crimes for the future, and that a sentence may be considered as judicious or as injudicious exactly as it does or does not fulfil this requirement.

I believe it will also be allowed that though reformation of the individual is always to be sought, and may often succeed, yet that it is to deterrence that we must look for the principal diminution of crime. But if our object be to deter future criminals, it is of the utmost importance that those who are likely to commit future crimes should know with some degree of accuracy what that punishment will be, the dread of which is to deter them. Even suppose a judge to be superhumanly gifted with a perfect knowledge of all that has passed through the mind of a criminal, all the temptation, or all the deep plotting, and suppose him able to judge exactly of the effect of prison upon that criminal's individual temperament, and precisely to apportion the amount of pain to the amount of wickedness, he would have arrived not one jot nearer to the end of all punishment, viz., the prevention of future crime, unless he were able to explain all his knowledge and his reasonings thereon, so as to be intelligible to that weak and unreasoning class who are to form our future criminals. The object to be sought is not to frame a system which shall be considered as satisfactory by the higher classes, because generally speaking, it is not the higher classes who require to be restrained from petty thefts; but to frame a system which shall be clearly intelligible to the weak and ignorant, and which may, therefore, be calculated to have its effect upon *them*.

I fear that no such system can be devised on the principle of estimating the precise amount of wickedness in each case, and apportioning thereto an equal dose of punishment. Even if different magistrates could agree upon a definite estimate of the amount of wickedness, the weak and ignorant class of future criminals would not understand it, and, therefore, would not profit by it. The legal definition of crime—burglary, house-breaking, highway robbery, and simple larceny—scarcely gives any intimation of the amount of criminality or of the punishment deserved or required. I have had in my reformatory highway robbers, housebreakers, and burglars, quite legally convicted of those crimes; while yet both their intention and their acts were of such absurdly trifling degree that I felt ashamed to detain them and charge the country with their keep.

But I believe that there is another principle on which we may found a system, which will at the same time be strictly just

in almost every case, and be perfectly intelligible to the classes on whom we seek to operate, and which would require no new laws nor new prisons, nor at any time an increase of expense, but probably, if not certainly, would cause a great decrease of the national expense after a time.

The system I would suggest for your consideration consists simply in making the punishment depend not on the supposed degree of criminality, but on the number of repetitions; and that the sentences should be very few in number, and passing from one to the other by such long steps as to leave no doubt or haziness as to what the punishment will be. I believe it also to be very essential that the same amount of punishment should rarely, if ever, be inflicted a second time on the same culprit, but that he may know that the punishment he will receive for his next crime is altogether new and much more to be dreaded than his last.

To effect this I would propose that as a general rule (not as a rule without exception, but one which may be adopted fairly in nineteen cases out of twenty) a culprit on a first conviction should receive an imprisonment of only a week or ten days, whichever period would give bread and water only, according to the rules of the gaol to which he shall be sent. That for a second offence he shall receive twelve months' imprisonment; for a third, seven years' penal servitude; and for a fourth, penal servitude either for life, or for some such long term as shall enable him to be released on ticket-of-leave, but kept for the greater part of his life under surveillance.

The mode in which I should propose to work this system would be simply to bring the matter before magistrates of any quarter sessions. If the majority of those assembled desire to adopt it, it would not render it binding upon any who dissented. Nevertheless, I have little doubt that the opinion of the majority would have great weight, and that by far the larger number of magistrates throughout the county would give the system a fair trial; and that if it were found to answer, the dissentients would rapidly decrease.

If the principle were adopted in any county, I assume that it would be thus carried out. A policeman on apprehending a prisoner would inquire, if necessary, whether he was a stranger,

or an inhabitant of some standing ; if the latter, it would be readily ascertained whether he had been previously convicted or not. He would then take him before the petty sessions, where the evidence would be heard. If the case were proved, the prisoner would be informed that the *rule* is to commit for trial at quarter sessions ; but that if there be a fair presumption that he has not been previously convicted the case will be taken under the Criminal Justice Act, and he will be committed for ten days. The policeman will then bring forward what he knows of his antecedents. If it appear to the magistrates that there has been no previous conviction for, say, five years, they will commit him for ten days of bread and water, warning him at the same time that if he be again found stealing, his punishment will be for twelve months. If he be a stranger he will be asked whether he can give any account of his antecedents, which may entitle him to the lighter punishment. If he states that he has worked for the last two years in Birmingham for such and such masters, and lodging in such a house, and for three previous years in Manchester ditto ditto, the magistrates will probably remand him for a week, and desire the superintendent of police to write to the police at Birmingham and Manchester, to inquire into the truth of the statement.

If the reply be favourable, he may be discharged or committed for a few days longer ; but if he again steal, though it be in another county, and again give the same reference, the Birmingham police will say that his account is true, but will state the conviction which has since occurred. If the man has been an habitual vagrant, and can give no reference, it will be advisable to commit him to quarter sessions, partly in order to give time to inquire into his antecedents, and partly to check for as long as may be his wandering habits.

At the quarter sessions, if a previous conviction be proved, he will receive twelve months' imprisonment ; if not, he will receive as long an imprisonment as the law will allow for his crime. If two previous convictions, he will get seven years' penal servitude ; and if three, a penal servitude which will detain him for many years, and retain surveillance for many more.

I believe that such a system would act fairly and properly in somewhere about nineteen cases out of twenty ; but of course

there would be exceptions, at the discretion of the magistrates. Some first convictions would be of so heinous a character as to require to be treated as second, third, or fourth ordinary convictions; some second convictions would be for such slight offences as to be treated as first, but I believe that such exceptions would be rare.

The effect of such a system would be, first, that any man meditating a crime would know the penalty beforehand with startling distinctness. He would know perfectly whether he had been in prison or not, and how often, and this would tell him precisely the punishment to expect.

But, secondly, it would bring a far more important result, viz., that it must inevitably annihilate the class of old and hardened offenders, who at present are the dread of the honest and the corruptors of the weak. I believe that even now not one in fifty attains either eminence or skill as a thief before he has been three or four times convicted; although at present he can find gangs of skilful thieves to instruct and shelter him; but under the system which I propose, even a thrice-convicted thief on his return to liberty would have been for seven years out of practice. If he again commence crime it must be as a bungler, and without the aid of a gang; and he would probably be soon caught and made safe for life.

The objections most commonly made to the system are, first, that men would calculate on the ten days' imprisonment, and would not dread the commission of a first offence; secondly, that if every second conviction receive twelve months it would fill our gaols and require new ones. To the first I reply that men who have not been convicted do not calculate upon the consequences. They *fall* into crime—in nine cases out of ten—rather from weakness and thoughtlessness than from premeditation; it is after two or three imprisonments of three months each that they get used to gaol and used to crime, and calculate coolly on the chances of both.

To the second objection I reply that the shortening of the term to the many first convictions would compensate for the increased length of the second; while I have little doubt that the increased severity on a second conviction would deter so many as to greatly diminish our average of prisoners.

Lastly, I believe that the system, if tried and successful, would give to the public a greatly increased respect for the operation of the law, because it would show that the object desired was not a mere revenge for past crimes, but an effectual prevention of future crimes and a regard for the public safety.

ON THE APPORTIONMENT OF SENTENCES TO CRIMES.

1865.

A NEW system has been suggested of regulating the sentences passed on criminals. It is assumed, and we think few will disagree with such assumption, that the diminution of future crime is the only object which we either wish or have a right to consider in the passing of sentences, and that punishment for past crime, while most valuable if it serve to deter either the person sentenced or others from future offences, ceases to be either practical, or philosophical, or Christian, if inflicted without reference to the future. That now suggested founds its claim to public consideration solely on the ground of its being more preventive of future crime than the system, if system it can well be called, which is now in use.

Let us place fairly before the reader the two modes of allotting sentences to crime, and then consider the bearings of each.

Under the existing system, when a prisoner is found guilty, the magistrate (whether judge, or chairman, or recorder, with or without consultation with others) considers carefully the evidence which has been adduced, estimates from it as correctly as he can the amount of turpitude in the mind and heart of the prisoner, and orders the infliction of just so much punishment as in his estimation shall be equal or proportioned to that amount.

On the other hand, the new system, while by no means suggesting that the magistrates should be restricted by law, or that they should bind themselves to any invariable rule, proposes that they should agree amongst themselves to adopt a definite principle, which it is believed would answer well in eighteen or

nineteen cases out of twenty, although in the twentieth case it might require great relaxation ; and that the sentences should depend, not on the estimated amount of the guilt of the past crime, but upon the simple fact of whether the criminal had or had not been previously convicted. A scale of punishments is laid down, concerning which much discussion has arisen, but the first point for consideration is whether a scale fixed and understood by all, or one which varies with the will or opinion of each magistrate, would tend most to the diminution of future crime. The scale suggested is that a prisoner on a known first conviction, in eighteen or nineteen cases out of twenty, should, if possible, be tried summarily, and receive a week or ten days' imprisonment, with a warning that if he again offend he will receive—not a sentence of imprisonment varying from a fortnight to three months, according as he may have the luck to steal much or little, or to find a lenient or strict judge, but a commitment for trial at the sessions or assizes, involving all but a certainty of twelve months' incarceration, and for a third offence seven years' penal servitude, and for a fourth the longest term which the law allows.

A difficulty still remains with reference to that numerous class in which the prisoners' antecedents are unknown. It is proposed to meet this by making it the rule to commit all to quarter sessions, excepting such as can show to the satisfaction of the magistrates that they have not been previously convicted for, at any rate, several years. It is believed that about two-thirds of our convictions are of men who have lived for at least some years in the neighbourhood, and whose characters could be easily ascertained. The remainder would be allowed to explain where they had lived, and for whom they had worked, during the last few years, and their statements might be verified by the superintendent of police during a week's remand. If such account appear to the magistrate to be satisfactory, the prisoner would receive the short sentence mentioned above ; but if he fail to show any reasonable grounds for believing that he has lately lived an honest and steady life anywhere, it should then be the rule to commit him to quarter sessions, partly to give time to inquire into his antecedents, and partly to check his wandering habits.

Such are briefly the two systems under consideration. In favour of the former it is urged that great discretion must necessarily be left in the hands of magistrates. Offences which come strictly under the same legal definition vary extremely in the amount of guilt. A theft which, if practised on a stranger and under momentary temptation, would merit only a week's imprisonment, would, if committed with premeditation, and the person robbed were a master, be deservedly punished with six months, though in either case the property were of the selfsame value. Offences vary so much that, if they are to meet an exact proportionate amount of punishment, no rule can be laid down. It is true that magistrates' estimate of the amount of wickedness in each prisoner must vary, and that the punishments given in one court must differ greatly from those allotted by another; but there can be little doubt that all are honestly adjudged, and by men who are entitled to all confidence, whether they be judges whose lives have been spent in the study of the law, or recorders, or stipendiary magistrates chosen from the bar. Even in the case of the unpaid magistracy, whether in quarter or petty sessions, several usually act together, and the opinion of those of the greatest experience has the most weight. Thus sentences are pretty sure to be well and wisely given, and to withdraw from such a body the discretionary powers which they now enjoy would be to cast an undeserved stigma on them and lower their position. Indeed, it is urged that there would be little use in retaining the office of a judge or magistrate if these functionaries are to be so shorn of their dignity as to be deprived of the power of passing exactly what sentences they may think fit.

We think the above is not an unfair or unfavourable view of the opinions urged by the admirers of the present system, and to express a doubt of its truth appears almost heretical; yet, if we consider the arguments, they are hardly tenable.

First, it is stated that large discretionary powers must be given to the magistrate in order that the punishment may be accurately apportioned to the offence. It is assumed that the whole value of punishment consists in its being so allotted. Is this really so? Is it true that we derive either benefit or gratification from the inflicting a punishment exactly propor-

tioned to the injury inflicted on society by the culprit? Probably few, if any, will be found to defend this view. But it may be said that a punishment so proportioned will deter future criminals. A little consideration will show us grave cause to doubt this. All who have had real experience of the feelings of the criminal class well know what a reckless, thoughtless race the majority of them are. It is the common law of human nature that we all look on our own offences with a favourable eye. The weak and unreasoning class who fall into crime are especially liable to this error. The consequence is that, as they cannot take exactly the view the magistrate will take, they almost always hope for a less punishment than they receive. If so, our system fails to deter, and therefore to prevent, and its punishment becomes mere retribution for the past, not prevention for the future.

This point is well worthy of close consideration. If it can be shown that either punishment, or retribution, or retaliation for the past, irrespective of the future, is to be desired on either moral or religious grounds, or if it can be shown that a fixed system of allotting sentences will not deter future criminals so much as one which varies according to the will or opinion of each committing magistrate, so much of the argument falls to the ground; but it is of much importance that this question should be fairly and closely examined.

But, secondly, it is said that the judges and magistrates are such a body of men as may well be trusted with large discretionary powers. None who have had opportunities of acquaintance with them will doubt that our judges are as highly talented and as upright a body of gentlemen as the world can produce, and that on any subject where they have experience their opinions are entitled to the greatest weight. In weighing the value of evidence, in investigating the legal guilt or innocence of a prisoner, they are probably unequalled. In estimating the amount of moral turpitude displayed they may probably, from their natural and acquired shrewdness, surpass most others. But what opportunities can they have ever had of studying the opinions and feelings of that race who are to form our future criminals, or of finding out what punishments will be most efficient in deterring them from future crime? Yet if the

object sought is not retribution for the past, but prevention for the future, this acquaintance with the motives and feelings of the criminal class is the especial knowledge required in the allotment of sentences.

To recorders and stipendiary magistrates the same arguments apply in a less degree. They are probably, on the whole, inferior in talent to the judges, but, from their labours being confined to one town, they have some opportunity of hearing from the gaoler or police what effect has been produced by many of the sentences they have passed. Some of those, however, who rank among these gentlemen as the highest authorities on the subject of the Repression of Crime, are, it may be observed, warm supporters of a *nearly* fixed and intelligible system of sentencing.

The great unpaid body of magistrates, as they are sometimes termed, are, it must be conceded, far inferior in talent to the judges, yet such as fill the post of visiting magistrates have far larger opportunities than judges of gaining a knowledge of the effects of punishment; nevertheless, in spite of this advantage, their very number precludes a hope that they will exhibit such uniformity of action as will have a really strong effect in deterring future criminals, unless some principles of action are laid down and agreed to.

But the most extraordinary and the least complimentary idea is that which supposes the *dignity* of judges, recorders, and country gentlemen to depend on their freedom to order for a criminal just what punishment they may fancy, without having any rule to guide them to a similarity of action. It seems to be held treasonable to show that one system is more efficient than another, because such showing would deprive them of their liberty to take the less efficient course. We may leave such arguments to answer themselves. If the dignity of the bench did not stand on more secure ground than this, we might indeed tremble for it.

But the important question comes, will such a nearly fixed system as that which is proposed tend to diminish crime? For many reasons we may expect that it will do so. If a man who has received a ten days' imprisonment is aware that his next conviction will ensure a detention for twelve months, instead of

some uncertain period which he invariably hopes will be shorter than it proves to be, such knowledge will be unquestionably more deterrent than the present uncertainty; and at the same time, when the consequences are clearly laid before him, he will have far less right to complain of harshness than now, when he is frequently tempted to hope for a light punishment, but practically receives a heavy one.

Furthermore, such a system must ere long bring to an end the very existence of skilled thieves; for as a man would, on his second conviction, be sentenced to twelve months' detention, and on his third to seven years', it would be impossible that he could acquire the skill necessary for the higher branches of the art.

But, instead of reasoning on probabilities, let us look to facts. The system has been tried throughout England on a class. In 1856 it became the practice to commit all juvenile offenders on their second conviction to reformatories, and therefore to long terms of detention, almost irrespective of the magnitude of the special offence. This became, therefore, a fixed and cumulative system well understood by the juvenile offenders, instead of an attempt at an exact retribution. What was the consequence? Juvenile crime had been steadily rising, and had reached the number of 13,981 convictions in 1856. But in 1860 it had sunk to 8,029, and the worst class of boy thieves had entirely disappeared. The judicial statistics show that in each large town the decrease exactly followed the adoption of the fixed and cumulative system of sentences, in place of the uncertainty which had till then prevailed among boys, and still prevails among adults.

Foremost, perhaps, among remarkable instances of this is the case of Cheltenham. For many years juvenile crime had been on the increase, and, in 1856, 53 boys were committed to prison. The magistrates then adopted the plan of sending every boy on his second conviction to a reformatory. The next year the number sank to 14; the next there were 25, then 14, and in 1860 only 13. In 1861 the magistrates reverted to their former system, and passed sentences which they believed to be proportioned to the offence. The certainty of the sentence ceased, and that year 24 were convicted, and in 1862 there were

49. In 1863 they returned to the fixed sentences for second convictions, and the number fell to 24, and in 1864 to 13. Can it be held that this was an accidental rise and fall? or are all these instances the effect of mere chance? Surely not. Let us then attempt to diminish adult, as we have already diminished juvenile crime. God forbid that we should consider the sin and suffering caused by habitual crime (putting out of sight for the moment the loss inflicted on the honest man, who is first robbed and then heavily taxed to punish the thief) as objects unworthy of our care.

*RECOMMENDATIONS PASSED AT THE TRINITY QUARTER
SESSIONS FOR THE COUNTY OF GLOUCESTER, 1866.*

‘1st. That any man convicted for the second time of theft should not be tried summarily at petty sessions, but should be committed to prison for trial at quarter sessions or assizes.’

‘2nd. That when any person whose previous history is entirely unknown shall be deemed guilty by a magistrate of theft, even though to a small amount, he should not be tried summarily, but committed for trial at quarter sessions or assizes.’

‘If, however, any person, being a stranger in the country, can state to the magistrate any place where he has lived for some years with a good character, the magistrates may probably remand him for a time, during which inquiries may be made of the truth of such statement. But if he is unable to show that he has ever borne a good character, he will not be entitled to hope to escape with a light punishment.’

SYSTEMATIC PUNISHMENT FOR CRIME.¹

SOME letters of mine which have lately appeared in the 'Times,' and the unanimous consent of our magistrates in quarter sessions to memorialise the Home Office to increase, instead of abolish, the ticket-of-leave system, have brought me such a number of letters—many from highly valued friends—that it is far beyond my power of hand or eyes to answer them separately as fully as I could wish. Let me try whether by your aid I cannot answer them in the lump.

First I must thank my correspondents for their uniform kind wishes, and, I may add, almost uniform approval of the views I have roughly sketched; and I am inclined to hope that if I should be able in this letter to explain more distinctly what those views are, the objections of the few would be lessened. When I add that, amongst others, the venerable late Recorder of Birmingham writes, 'Therefore do I say again, go on in your own way, and may God prosper you!'—and that many others from distant parts of England cheer me on—I need make no other apology for resuming the subject.

It is generally advised that in suggesting a new system a rough outline only should be given, because it is easy to object to minute details, and if any are altered a portion of the credit of the invention is gone. But as I claim or seek no credit as inventor, and merely wish the plan to be discussed as thoroughly as possible, I will, if you permit me, lay down as clearly as I may both principles and details.

THE PRINCIPLES.

Those which I believe to be true in repressing crime are—1st, that punishment, if it be not preventive, is of no use. We punish, not because a man *has* done wrong, but simply to prevent him and others from doing wrong for the future. We must, therefore, study carefully how to make the deterrence as great—when compared with the punishment—as possible.

2nd. To be deterrent the punishment must be certain—not merely certain that, after the crime is committed and proved

¹ Letter to the editor of the *Gloucestershire Chronicle*, February 13, 1869.

and the sentence is passed, that sentence will be carried out: this is a useless certainty. The useful certainty is that the man about to commit a crime should know what punishment will follow his detection.

3rd. It is an old saying that use is second nature. Whatever a man is used to he will cease to dread; therefore no two following punishments should be alike.¹

4th. A short punishment, with the dread of a longer, will be cheap and deterrent. A long detention may give a man habits of hard work and self-restraint, and keep him out of mischief till his bad associates are dispersed, and he can begin life again with less external temptation. But an imprisonment of between one and six months only makes him used to gaol, takes off his dread of it, and then throws him back amongst his evil associates, to make them and to be made worse than before.

5th. If a man has been long in gaol he usually comes out weak in body and mind; he finds a difficulty in getting employment, and he is indisposed to work hard. At this period more than probably at any other of his life he requires help to go right, and supervision to check him from going wrong.²

6th. Experience shows us that many are reformed (by which I mean that they practically do not continue their course of crime) after the first conviction; but that the percentage is smaller after the second, and smaller still after the third; also that a man at the time of his first conviction is less experienced, less skilful, and therefore less mischievous, as well as less hardened, than he will be at the time of his third or fourth conviction; and that even if his first theft chance to be of a large value, it will be rather from accident than depravity. Therefore the many comparatively harmless cases of first conviction may

¹ I cannot feel a doubt that the numerous cases which we used to find in all large towns, especially in London, of boys convicted from five to twenty times, and each time sentenced to three months' imprisonment, tended greatly to extinguish all feeling of deterrence and to increase crime. Far more injurious to the cause of justice and order are the numerous cases of small offences punished fifty or a hundred times following by three days' imprisonment.

² Supervision is practically found sufficient in most cases (and might be so in nearly all) to keep a man out of crime. It is so slight as a punishment, and so free from expense, that it may properly be extended to a far longer term than imprisonment, thus giving lengthened security to the public.

be treated lightly and cheaply, but the possibility of often-repeated crimes should be prevented at any cost.¹

If these principles be true, as I believe they are, how can they be carried out with the least change of the law, the least compulsory change of practice, and at the least expense to the country? First, by that which I will venture to call—because I at least believe it to be so—

AMENDMENT OF THE LAW.

Little would be required beyond the carrying somewhat farther some principles which have been long accepted and tried, and, I think, generally approved.

1st. Let the Criminal Justice Act be slightly altered. Give power to magistrates in petty sessions to determine all cases of felony, whether the value stolen exceed five shillings or no, provided (1st) that they consider that an imprisonment of one month will be sufficient, and (2ndly) that they can sufficiently trace the prisoner's antecedents to have good reason to believe that he has not been previously convicted within the last two years, or has been convicted only of three such extremely small offences that, notwithstanding them, they deem one month to be a sufficient sentence. But in all cases where the antecedents are unknown, or where there are more than three previous convictions, or where they consider a sentence of one month insufficient, they shall commit for trial.

2nd. Power should be given to quarter sessions to commit for two years' imprisonment in all cases brought before them.

3rd. Extend the Penal Servitude Acts. Give to judges and courts of quarter session power to pass sentences of five years—stating at the time that the convict may by hard work and good conduct gain a licence at the end of two years—or sentences of ten years, in which a licence may be gained in three

¹ Hardly anything can be more fatal, not only to what we are pleased to call the *majesty* of the law, but even to its respectability, than to have practically to confess that it is beaten, and that it is utterly inefficient to stop the course of any one who chooses to go on in crime. Yet in the Liverpool Gaol Report of 1868 I find within the year 111 female prisoners who 'had been there 30 previous times, one 71 times, two 73 times, one 109, one 121 times'—and cases are not unknown in London even worse than these.

years—or of twenty-five or fifty years, in which a licence may be gained in ten or fifteen years, but which shall practically ensure supervision for life.¹

4th. The seven Criminal Consolidation Acts, 24 and 25 Vict., ch. 94–100, abolished many old and obsolete distinctions between felony and misdemeanour. The latter might again be curtailed with advantage. Attempts at robbery, cheats, and such assaults as shall in the opinion of a magistrate deserve more than one month's imprisonment, should be made felony; drunk and disorderly, slight assaults, prostitution, swearing, begging, &c., to remain as misdemeanours.

5th. The same seven Acts also sanctioned the principle of cumulative punishments to the degree of allowing a sentence of seven years on a second conviction for felony. I would propose now to allow of a ten years' sentence (less severe than the old seven years) on a second conviction, and twenty-five or fifty years on a third; these, as maximum punishments, rarely to be inflicted on a second or third, but nearly always on a fourth or fifth offence. .

6th. For misdemeanours—viz. the very light ones—give power to magistrates to order not exceeding one month's imprisonment up to the fifth conviction; but after that time let them be committed to quarter sessions, and punished by increasing sentences and long surveillance.

7th. Extend the principle of the Reformatory Acts to adults, thus. Give power to the Secretary of State to license a reformatory, and when so licensed let it be deemed a prison. The Secretary of State has power to remove a prisoner from any one

¹ This would leave the name of 'penal servitude for life' as a separate and distinct punishment, for which it would be understood that, being only a substitute for a death sentence, no remission, even under supervision, would be allowed. It is important that there should be a clearly recognised distinction between the sentence which consists principally of supervision and that which cuts a man off from the world for life. The name of *penal servitude*—which from the first was ordained to consist of three parts, viz. separation, hard labour, and supervision—is hardly applicable to incarceration till death. *Imprisonment for life* would seem to be a more intelligible title. On the other hand, the Royal Commission of 1864 recommended that a life sentence without remission should be called *penal servitude*; so perhaps it had better remain. If, however, the name were changed, the twenty-five or fifty year sentences might be more conveniently called *life sentences with remission*.

prison to any other. Also give him power to grant a licence to be at large under surveillance from a gaol exactly as from a convict prison.

Now, if the laws are thus altered, two questions arise:—
1st. Will the magistrates voluntarily alter their practice so as to carry out the principles? 2ndly. By what alterations could they effect their purpose? I know that there is great variety of opinion on this point. Some believe that unless they are tied down by a rigid rule they will not act with any sufficient degree of unanimity; others hold that it would be injurious to interfere with their absolute discretion, even by a recommendation from their brethren in quarter sessions. I myself do not agree with either. The jurisdiction of magistrates always has been limited by law, and I should not wish to see it further limited except in the degree of preventing a long series of short imprisonments on the same offender, such as the cases I have quoted in Liverpool; and—I should like to add—in the case of the infliction of sentences of two or three months, which, as I believe, tend only to make a man used to, and careless of, prison, without being long enough to benefit him permanently. We have seen that in many cases magistrates do greatly alter their system, even with or without any regular consultation on the subject. In London, up to 1860, it was the custom to send boys to prison time after time on short sentences. I have a list extracted from the books of the Westminster Prison of 456 boys under sixteen who had been sent four times or more to gaol, while 165 of them had been sent eight times or oftener. Now, by a return received only last week from Col. Colvill, governor of Coldbath Fields Prison, it appears that in the last seven years only 73 boys have been committed on a fourth conviction, and only three on an eighth.

It is true that for some years after the Reformatory Act was passed it was not greatly used; yet now, as the above returns show, the result has been extraordinary.

To take another instance. In 1866 the magistrates of Cumberland and Westmoreland agreed at their quarter sessions to recommend to their brethren to carry out the Vagrant Act, and to punish all beggars with greater strictness. The police

were ordered to take greater pains in apprehending them, and finding themselves supported by the magistrates they took up a large number, and while in almost every other county the vagrants have increased largely, in those counties they have diminished by ten per cent. It is true that a large body of magistrates will not change their practice on the crotchet of one or of ten of their bench, nor would it be right, or to be wished for, that they should do so; but if it were the wish after mature deliberation of a majority of their brethren, I feel no doubt that the change would ere long be universally adopted.

A rigid rule can hardly fail occasionally to stultify itself. If it were the law (as I believe indeed that it is, only that it is not always acted on) that every second conviction should be sent to quarter sessions, it would be necessary so to deal with every boy whom an angry farmer had caught for the second time eating an apple or turnip as he walked through an orchard or field. I would rather leave the magistrate at liberty, where the case was extremely slight, to deal with it twice or thrice in felony, and four or five times in cases of misdemeanour, though in a case *not extremely slight* he would commit for trial on a second felony.

If, then, it were shown, by the very fact of the alteration of the law, that public opinion was in favour of such a change, I have no doubt that magistrates would agree among themselves as a general rule of

MAGISTRATES' PRACTICE.

1st. To sentence nearly all first convictions to very short imprisonments (giving at the same time due warning of the consequences of being caught a second or third time), and on a second conviction to commit for trial. This would leave the magistrate full power to commit for trial on any very serious first offence, or to deal lightly with *three* very small offences.

For my own part I should prefer sentences of ten days, and I am somewhat borne out as to this period by the great increase of commitments for 'fourteen days or under' which we see has taken place through England. In 1858 there were 20,968, in 1867 there were 31,778 such sentences.

2nd. Every policeman would be instructed when he apprehended a prisoner to make what inquiries he could on the spot amongst the neighbours as to the prisoner's antecedents, and to state them on a form such as is in use in Gloucestershire, and, at the instance of Sir Walter Crofton, in Hampshire, and which is found to succeed admirably. The magistrates would then agree to offer to those whose antecedents for the last two years were unknown to receive any statement they might make to show where they had lived for such time, which might be verified by the police during a remand. If, however, they were unable to show any tolerably respectable character, it would not be too hard to commit them for trial.¹

3rd. In quarter sessions it would be usual to pass sentences more regular in length than at present, because none would come there except, first, those on a second conviction who had had due warning; or, secondly, those whose first detention was for some very serious offence; or, thirdly, those whose lives for the last two years would not bear inspection. Either of these three classes would require a rather long detention, and unquestionably a period of supervision before entire freedom. The court would therefore probably pass sentences of one or two years at the least—explaining at the time that a remission might be obtained in six or twelve months, but that a careful watch would be kept upon the licensee, and a very slight lapse would return him to the prison.

If a reformatory for adults were established—as it would be, please God, at once in this county, and shortly in most others—the court would consider it in their sentence, and recommend, if approved of by the visiting magistrates and governor of the prison, an application to the Secretary of State for a removal thither at the end of, say, four or six months.

¹ I have just received a return from our county gaol that of 100 men summarily committed, 49 had been known for five years or more, 21 for two years, 8 for one year, 7 for six months; 15 were unknown; while of 100 committed for trial, 58 had been known for five years or more, 21 for two years, 2 for one year, 2 for six months, and 17 were unknown. This shows us two important things: 1st, that the tramps form a smaller proportion of the offenders than many suppose; 2nd, that there are few of whom it would be difficult to prove two years' antecedents, and there would be fewer still if time were afforded them to prove antecedents which would shorten their sentence.

We should have then obtained a clear, intelligible, homogeneous system of treatment of all cases of crime. Boys and men—young offenders or old—each would understand pretty clearly what would happen to him if he offended against the laws: namely, that nearly every first offence would meet with a short sharp punishment and a warning; that nearly every second and subsequent offence would meet with a punishment of three parts, viz., severe imprisonment, hard labour to prepare him to earn a living, and supervision to see that he does it; whilst the term would be so rapidly increased that a third conviction would place him under some degree of restraint through his hot youth, and a fourth for life.

Now to the third point—

THE COST.

There would be a great saving of the expense of our present system. The first convictions would be imprisoned for ten days instead of three months. If it were clearly understood that a second conviction would be met by twelve months' detention and twelve months' supervision, second offences would be more rare; while if a reformatory were established, where each man would cost certainly less than 20*l.* instead of above 30*l.* per annum, the cost would be again reduced. Any county or borough contemplating an outlay of 9,000*l.* or 10,000*l.* to enlarge a gaol, or of 50,000*l.* or 70,000*l.* to build a new gaol equal to their requirements, might establish an adult reformatory at a cost of 1,500*l.*, which would render their present building amply sufficient.

The numbers, too, in the convict prisons would be reduced—first, because a larger proportion of each sentence would be passed under supervision; but still more because the system of cumulative punishment prevents the existence of such a being as an old, practised, and therefore skilful thief—and if thieves be deprived of their leaders and teachers, and examples of success, recruits will come in very slowly.

I have given at, I fear, too great a length a nearly complete account of what I believe to be a requisite change in our system. The public opinion appears to lean more and more in this direction, and I have little doubt will ere long arrive at a somewhat

similar conclusion. As yet the plan is only one of Barwick Baker's crotchets, and is simply thrown down to be pulled to pieces. But some of those crotchets have happened to turn up right, and I will only add,—

Si quid novisti rectius istis,
Candidus imperti; si non, his utere mecum.

SENTENCES—FOR RETALIATION OR PREVENTION?¹

FORGIVE my reminding you that the discussion on sentences was postponed from the last to the Epiphany quarter sessions, and will then be continued. The suggestions have been somewhat altered in form, and are shorter, and, I hope, less liable to be misunderstood.

They now stand as follows:—

That the Court of Quarter Sessions assembled at Gloucester recognise the expediency of adopting a general rule for the passing of sentences for felony, which—without binding any magistrates who may dissent from it, and leaving to all freedom of action in exceptional cases—may be a guide to such a uniformity of practice as shall be intelligible to the public, and deterrent to those likely to fall into crime; and that the following suggestions be recommended for adoption:—

1. That when any prisoner is apprehended on a charge of felony the police be instructed to endeavour to ascertain his antecedents for the last five years,² and to enter them in the form provided for the purpose. That if this cannot be done, but the evidence appear sufficient for a committal, the prisoner be remanded, as recommended by Mr. Bruce's late circular, and the truth of any statement he may make be inquired into by the police; but that if no antecedents be shown he be almost invariably committed for trial at quarter sessions.³

¹ Letter to the magistrates of the county of Gloucester, December 6, 1870.

² The chief constable approves of this suggestion, and anticipates no difficulty in carrying it out.

³ As an instance of the evil of dealing summarily with unknown men, Thomas Nash was convicted, Trinity Quarter Sessions, 1859, of stealing two

2. When such prisoner shall be committed, the governor of the prison, or some officer appointed by him, shall invite the prisoner to afford any such references as may be to his advantage in proving honesty of life. Such referees shall be applied to by the governor or by the police, and the replies shall be communicated to the prisoner, and shall be given in at his trial.

3. If he appear not to have been previously convicted of felony, they would suggest that he should be summarily dealt with, and receive a sentence—proportioned not so much to the value of what he may chance to have stolen as to the fact of its being a first conviction—namely, ten days or not exceeding a month, unless the theft be exceptionally large. But if it should appear that the prisoner has been previously convicted of any felony or indictable misdemeanour, it should be remembered that by the 24 and 25 Vict., ch. 96, such prisoner is liable to penal servitude, and cannot *legally* be dealt with under the Criminal Justice Act.

4. That it be considered the duty of the prosecutor or his attorney to inquire of the governor of the gaol whether any previous conviction of the prisoner be known; and if so, to take care that the necessary evidence for proving it be produced at the trial, as the case will not be complete without it.

The court desire that it should be made known that a sentence for felony after a previous conviction for felony will, unless in very exceptional cases, be one of not less than six months' imprisonment with seven years' police supervision; and also that where *two* previous convictions are shown, and where a sentence for six months' imprisonment or more has been undergone, it will generally be deemed that lighter sentences have failed in checking the habit of crime, and that a sentence of seven years' penal servitude is necessary.

The preamble merely makes clear that no attempt is made to bind or to pledge any magistrates to follow any course of

watches and a guard chain from the shop of Alfred Collins, at Thornbury, and sentenced to ten years' penal servitude. On January 7, 1867 (being just discharged on licence), he was again convicted, under the name of George Edwards, of stealing two brooches and two shades *from the same shop*, and *not being known* was summarily sentenced to six weeks' imprisonment.

action that may appear to be inconvenient in any particular case. It merely asks them to give fair consideration to the advantages that might be obtained by a regular, systematic, and united action.

It has been suggested by a high authority that it would be well to make the measure more comprehensive by substituting 'criminal charge' for 'charge of felony,' thus including misdemeanours as well as felonies. I much wish that the distinction (without a difference) between felony and misdemeanour were abolished, and that both could be subject to the same preventive rules, but at present the laws are so different that we cannot propose one rule of action to suit both. A second or even a tenth misdemeanour cannot be committed for trial at quarter sessions or be sent to penal servitude, although probably the example of 11 men and 44 women committed each *seven times or upwards during the past year* in Liverpool (many women having been committed more than 100 times in their lives) probably does more harm than many felonies, because it shows forcibly that the law of misdemeanour can indeed retaliate and punish, but it cannot prevent from crime those who are willing to brave a slight imprisonment, which soon by repetition becomes hardly worth avoiding. I trust that measures are even now in contemplation which may enable us to abate this sad scandal—this open and successful defiance of the law and the magistrates—which, though trifling in our own county when compared with large towns, is not unknown here, as the record of Mary Donovan, 18 times convicted in four years, will testify. But I fear that as the law now stands the two matters of felony and misdemeanour must be dealt with by separate measures.

I am told that a portion of the first resolution was objected to by some as tending 'to make a man in some degree criminate himself.' I confess I am unable to answer the charge, as I cannot see how by this or any other proposed resolution any man can be called on or led to do so. Every facility is carefully given to enable him to defend himself, or to show cause for the mitigation of his sentence, but none that can in any degree lead him to criminate himself except the power of pleading guilty, which I suppose none would wish to remove. At the

same time I must confess to a belief that our English jealousy of allowing a man to criminate himself is carried to nearly as great an extreme as the French are reported to carry the opposite system. The principle of strict justice and that of the prevention of future crime alike demand that we shall accept all reasonable and fair means of deciding on the guilt or innocence of the person accused, and I cannot but fear that our excessive objection to allow a man to say anything that may let out the truth is more founded on ancient custom than on true reason.

Another objection raised at the last sessions, chiefly by my friends Sir George Jenkinson and Serjeant Pulling, has at first sight more apparent ground—viz. that, as the former said, it would not be fair 'to send every one whom you chose to suspect to quarter sessions if he does not show that he has not been previously convicted.' I am happy to say that Serjeant Pulling, after a careful reconsideration of the subject, writes thus:—'I have no hesitation in saying that my opinion as expressed at the last quarter sessions with regard to sending for trial unknown prisoners is so far modified that I agree to this: a prisoner proved to be guilty of the offence charged should be bound to satisfy the magistrate before he deals summarily with his case that it is his first offence. If no antecedents be proved, and the magistrate is not satisfied that it is the prisoner's first offence, he should be committed for trial and not summarily dealt with.'

It is not the case, as Sir George understood, that we proposed to commit for trial 'all whom we suspect,' but only those against whom 'the evidence appears sufficient for a committal.' I trust Sir George will allow that if the evidence of guilt be strong enough to commit the prisoner summarily (while the Criminal Justice Act itself declares that it is not to be used in the case of any who 'owing to a previous conviction is punishable with penal servitude'), it will at least be desirable that magistrates, before proceeding to commit under that Act, should take time to inquire whether their proceedings be illegal, or at best an evasion of the law.

I think I explained at the last sessions that I really intended in mentioning the Thornbury case to impute no blame to

the magistrates who summarily committed Thomas Nash. It was the system which was universally carried out, and Sir George or I should probably have done the same under similar circumstances. But it cannot be denied that a grievous failure of justice was occasioned, not by the magistrates, but by the system; and if so, it is desirable that the system should be altered.

But I would fain ask my brother magistrates to consider carefully another question—viz., whether we do in fact pass our sentences for the sake of retaliation for the past or for the prevention of future crime. I know that nearly all will at once repudiate the idea of retaliation as our object; but if so, is it desirable to take it as our only rule?

If our object be the prevention of future crime, this can only be effected by producing an impression on the mind of a man who is likely to commit crime in future. Such an impression will be most strongly produced by showing to such a man, not what punishment some one else has received, but what he himself would receive if caught. If a clever thoughtful magistrate weighs the circumstances of a past offence with the utmost care and skill, he may more or less *retaliate* an amount of punishment on John Brown exactly equal to the amount of his crime. But how does that affect Thomas Smith, who is tempted next week to commit some other crime? He has not heard the case of John Brown—he cannot calculate the minute degree of right and wrong as the magistrate has done—he does not even know to what degree of crime he will be tempted—he only feels, ‘Some get much punishment and some little, and I dare say I shan’t steal much, and then I shall get but a short time. I got three months some time back, and it was very bad at first, but after a month I got used to it, and it was not half so bad, and I shan’t mind it much next time even if I am caught.’ But if he could say, ‘If I am caught I am very nearly certain to get six months, and seven years’ police supervision,’ would not this immensely increase the deterrent feeling, and thereby lessen our future crime?

Again, let me ask you to consider what would be the effect were such a measure carried throughout the kingdom, as, please God, it will be when once begun. I believe that all records of

crime will show that it is extremely rare for a man to commit a robbery of any importance, or to attain any skill in his art, without having been caught four or five times at least. But if his second conviction ensured six months' imprisonment, and then placed him under watch of the police for seven years, while he was yet young in crime and but a bungler as to skill, he would either be prevented from continuing his course, or would soon be caught and 'physically incapacitated' from learning more of his art for seven years, by which time he would be probably too old ever to attain high art. But were this done throughout the country, and none left to encourage, instruct, and stimulate the young beginners in crime, it would not only add materially to the safety of our houses, but it would lessen the cost of our gaols and police, and, what is of infinitely greater importance, it would lessen the temptation of thousands to commence crime.

SENTENCES FOR THE PREVENTION OF CRIME.

(February 13, 1872.)

At the Epiphany quarter sessions for the county of Gloucester, 1871, it was, on the motion of T. B. Ll. Baker, Esq., seconded by Mr. Serjeant Pulling, carried unanimously—

That this court, assembled at Gloucester, January 3, 1871, recognise the expediency of adopting a general rule as to sentences for felony, which, while making allowance in exceptional cases, may secure uniformity of practice, be intelligible to the public, and deterrent to those likely to fall into crime; and that the following suggestions be recommended for adoption:—

1. That when any prisoner is apprehended on a charge of felony, the police be instructed to endeavour to ascertain his antecedents for the last five years, and to enter them in the form provided for the purpose. That if these cannot be ascertained at once, and the evidence on the hearing appear to the justices sufficient for a committal, the prisoner be remanded, as recom-

mended by the late circular from the Home Secretary, and the truth of any statement the prisoner may make be inquired into by the police. But that if no antecedents within a reasonable time be shown, he be (as a general rule) committed for trial by indictment.¹

2. If a prisoner against whom a charge is proved appear not to have been previously convicted of felony, they would suggest that he should be summarily dealt with, and receive a light sentence—as for a first conviction—namely, ten days, or not exceeding a month, unless in exceptional cases, such as previous bad character, large amount of injury inflicted on the prosecutor, or circumstances showing the prisoner not to be inexperienced in crime. But if it should appear that the prisoner has been previously convicted of any felony or indictable misdemeanour, it should be remembered that, by the 24 and 25 Vict., c. 96, such prisoner is liable to penal servitude, and cannot *legally* be dealt with under the Criminal Justice Act.

3. When such prisoner shall be committed, the governor of the prison, or some officer appointed by him, shall offer to the prisoner every facility for affording any such references as may be to his advantage in proving honesty of life. Careful inquiries shall then be made by the governor or by the police, and the replies shall be communicated to the prisoner, and also to the judge before passing sentence.

4. That it be considered the duty of the governor of the gaol, with the assistance of the police, to make inquiries whether any previous conviction of the prisoner be known; and if so, to give information of the fact to the superintendent of the police of the district where the offence was committed. The superintendent shall forward the information to the prosecutor or his attorney, who shall take care that the evidence necessary for proving it be produced at the trial, as the case will not be complete without it.

The court desire that it should be made known that a sentence for felony, after a previous conviction for felony, will, unless in very exceptional cases, be one of not less than six

¹ As an instance of the evil of dealing summarily with unknown men, see note, page 54.

months' imprisonment, with seven years' police supervision ; and also that where *two* previous convictions are shown, and where a sentence for six months' imprisonment, or more, has been undergone, it will generally be deemed that lighter sentences have failed in checking the habit of crime, and that a sentence of seven years' penal servitude is necessary.

Ordered, that these resolutions be printed, and sent to every acting magistrate of the county.

By the Court.

GEO. RIDDIFORD,
Deputy Clerk of the Peace.

The first clause meets the much-complained-of grievance of permitting old offenders—who find their own neighbourhood too hot to hold them—to roam the country, pillaging small things when they can't get great, and, if caught, claiming the privilege of unknown men to be treated as hitherto innocent.

We have for some years in this county taken pains in procuring the antecedents of our prisoners. The police are supplied with forms on which to enter any information they can obtain, at the time of his apprehension, of a prisoner's former life ; and out of 161 prisoners tried at quarter sessions in 1870, there were only 29 either tramps or unknown, and only 15 others whose characters had not been known for twelve months.

By the new rule a stranger will be called upon and given every opportunity to show that he has borne an honest character somewhere. If he can do this, he will receive the smallest modicum of punishment. *If he cannot do this*, he can hardly claim a right to a lenient sentence.

The other resolutions appear, at first sight, to differ little from the ordinary practice. Very short imprisonments for first convictions have of late increased enormously—and, so far as we hear, with good result throughout England. The Habitual Criminals Act has enjoined seven years' police supervision on all (unless specially exempted by the court) who are found stealing a second time ; and few would consider six months too heavy an imprisonment for such an offence ; and for a third conviction a large number of judges and chairmen already give penal servitude. So, practically, the change of sentences is small. Yet

the change in *principle* is very great, and I am inclined to believe that, when that change becomes understood and appreciated, the effect will be larger than we can at present venture to calculate. The change is that—so far as regards larceny and the cognate offences specified in the first schedule of the Habitual Criminals Act,¹ and those of the 25 and 26 Vict., c. 96, ss. 7, 8, 9, as subjecting to penal servitude, and omitting, for the present, minor offences and many others which require attention, but which cannot well be included in the present motion—it be henceforth laid down and made known to the public that an exact retaliation (I use the word in no invidious sense, but in its literal meaning of weighing back an amount of punishment equal to the wrong done) is not the intention of our magistrates, but their object is solely the prevention of future crime. With this view, sentences, with certain rare exceptions, will be passed on so simple a plan that the most ignorant can understand them without the fine-drawn distinctions to which we have been accustomed, viz., that, with few exceptions, a first conviction shall entail in this county (I will hereafter explain why in this county more than others) ten days' imprisonment; a second, six months' imprisonment and seven years' police supervision; and a third, seven years' penal servitude.

Many objections will be made to this:—1st, that the law has placed large discretion in the hands of the judge or magistrate (let us for brevity use the term magistrate for whosoever determines the case), and whatever the law has ordered must be obeyed, and the magistrate has no right to give up this discretion to follow an arbitrary rule. I confess the wording of this argument does not seem to me to be happy. It would seem to imply a difference between the discretion placed in the magistrate's hands by Act of Parliament, and that placed in his head by nature and education; while if the discretion of one magistrate materially differs from the discretion of another, it would seem as if one of the two must be *indiscretion*—a result one would not like to contemplate. But at any rate we may con-

¹ Since writing the above the Habitual Criminals Act has been repealed, but only to have its provisions re-enacted in the Prevention of Crime Act, in a far more perfect and stringent form than we dared to ask for in 1869. The minor offences, too, I trust will soon receive attention. See note, page 75.

clude that, if the law has given him this discretion, it is for him to use it as he pleases; and as both his duty and his wish must be to lessen crime, if we can show that by acting on a simple nearly uniform system crime will be lessened, I can imagine no reason why he may not use his discretion by following that system.

But it is said we must look at it as a matter of justice. Justice is a great name. Justice between man and man, class and class—justice as to rights—is a great thing. But justice as to wrongs—justice as to punishment—I have often tried to hunt it into a corner, and catch it, and look at it. I never could find that it was any more than (1st) the opinion of a fallible magistrate (2nd) as to the amount of wickedness in the culprit (3rd), and what amount of imprisonment equalled that amount of wickedness (4th) so as to produce exact retaliation. Truly, if this be justice, it seems to stand on four sadly weak legs. 1st. Are magistrates, or benches of magistrates, moderately agreed in principles? Judges have declared in Parliament that they themselves were not, and that in stronger language than I like to quote.¹ 2ndly. Can the highest mortal wisdom decide the amount of wickedness in the heart of another? It has been truly said,—

What's done we partly may compute,
But never what's resisted.

3rd. Has any formula ever been laid down how much imprisonment equals so much crime? Has such a subject ever been discussed, or any books or papers written on it? Have the effects of any imprisonments, long or short (beyond the experience of one or two governors or chaplains in their own gaols), been tested, and careful deductions made from them? Is there,

¹ In the House of Lords on Tuesday, April 12 (as reported in the *Times* of April 13, 1864), 'Lord Wensleydale said that last year he had ventured to propose that the Lord Chancellor should write to the judges and ask them to meet together, in order that they might come to some common understanding in regard to the sentences which should be passed in cases of a similar kind. Objections were taken to that course; but he agreed that the want of uniformity and the lenient sentences which were now frequently passed *were a scandal and disgrace which ought to be put an end to*. (Hear, hear.) He thought it highly desirable that the judges should agree to some common principle in passing sentences.'

in fact, any guide to help or direct a magistrate farther than 'I should think that about such a sentence was right'? As for the 4th—Is retaliation a good means of preventing future crime?—the argument is longer, but I fear not more encouraging.

It is often and rightly said that the public find fault with sentences only because they don't understand them. No newspaper report can enable the public to see all the motives which have actuated the magistrate. He has probably reasoned quite rightly, but the public cannot understand his reason.

But if our object be to prevent future crime, we must endeavour not so much to influence the minds of learned barristers, experienced magistrates, or even of the respectable middle class, who are very unlikely to be tempted into petty larceny; but we must seek to influence the most ignorant and unreasoning of her Majesty's subjects, viz., those who are likely to be tempted to this description of crime.

But if we seek to influence a certain class, how is it to be done? By making an appeal to them which they can understand, or by words of the profoundest wisdom in a language of which they are ignorant? If you and I wished to lessen the drinking and riot of certain classes of Liverpool, and if you quoted all the wisdom of Socrates on the subject in Plato's Greek, while I simply told them, 'Now every one of you that I catch drunk and disorderly I'll send to gaol for a week the first time, and if he is brought up again he'll get a fortnight, and a third time a month,' which of the two appeals would have the more effect in preventing drunkenness? Yours would be the more learned, the more acute reasoning to an immeasurable degree, but I think mine would have more effect.

Just so a sentence calculated on exact retaliation (even if any tangible basis for calculation could be found) cannot be understood by the poor ignorant fellow whom we want to deter. He can only have the idea, 'Some gets much and some gets little, and I can't tell how 'tis, but I hope I shall be a lucky one.'

Now, if this be so, a question of great moment arises. Hitherto our chief consideration in awarding sentences has been 'What does he deserve?' or, 'What punishment will exactly

equal his crime?' as if the imprisonment were an antidote, a certain proportion of which exactly annihilated the poison, or an exact repayment of the money stolen, or a benefit to the public, making up for the wrong done; whereas the truth is that the crime is past and cannot be undone, and that the punishment is in itself only an additional evil, putting a man into an unnatural state, costing much, earning nothing, and learning little; and is only to be tolerated on account of some good results expected to arise from it.

Now, will anyone tell me what practical results will follow the most exact apportionment of punishment, so as to make up for the cost and evil of imprisoning a man, other than the preventing of future crime? But these two objects, viz. retaliation and prevention, require opposite means. To retaliate, we must let the crime be committed, and then adjudge the punishment to fit it. To prevent, we should make clear to the mind of a man under temptation what will be his punishment if caught, and thus have a far better chance of deterring him from committing the offence.

Now let us suppose the rough and simple system to be adopted of giving a week or ten days for an ordinary first offence, six months and seven years' supervision for a second, and seven years' penal servitude for a third, with very few exceptional sentences of intermediate lengths, so that a thief should feel pretty certain that, if caught, one of these three will be his fate.

It may at first sight appear that a man who has never been convicted will be encouraged to steal by the short sentence. But this is seldom the case. A man, till he has been caught, rarely brings it to his own mind that he is stealing. He thinks he is only *taking* some unconsidered trifle. It has been truly said that a man falls into crime at first as he falls into love or into a pond. He hardly knows where he is till he finds himself floundering in the midst of it. Now, if such a one be sent to prison for three or four months, he is at first horrified at his situation. His first few days are misery. But it is one of the mercies of nature that suffering lessens by habit. At the present moment I speak feelingly. I have been confined to my bed or chair for five weeks. At the first I was longing to

be at my usual pleasures or work. Now the sick-room has become a habit, and I take it contentedly. Catch a wild bird and cage him. He will scarcely live through the first week; but if he live for a month he becomes used to it, and by the end of six months will, if released, scarcely know how to find food.

So it is with a prisoner. Keep him for three or four months, and when he comes out he will tell his friends—‘Gaol is very bad at first, but never mind it—it is not half so bad when you get used to it.’ Can anything produce an effect more diametrically opposite to our intents for the repression of crime? Whereas, if we imprison him for a week or ten days—whatever time will give the lowest diet and the sharpest punishment according to the rules of the particular gaol—he will tell his friends that gaol is the most horrible place imaginable, that a week or ten days nearly starved him; and that next time he is to have six months, and he doubts if he can live through it.

When the public come to appreciate the system, it will be felt that ten days is by no means the only punishment; that there is also hanging over him—ready to descend if he does not guard his honesty carefully—the six months’ imprisonment and the seven years’ supervision as an habitual criminal. When that fact is realised, the ten days will become of still more importance.

I must here explain that in suggesting ten days as the best punishment for a first offence in this county, we were governed by one rule of our own gaol, which for that term orders a bread-and-water diet. It is an excellent rule, and I wish it were more general. A man is never lowered in health and muscle so as to be unable to work, but it gives him a most salutary dread of prison; and it is rarely found that a man who receives ten days for his first offence again visits the prison. Should any other counties adopt a similar system, the magistrates would of course consider the rules of their own gaols, and fix on whatever term they considered to be the most short and severe.

Of course there must be exceptions to the rule of a short imprisonment for the first offence. These are noticed in our

second resolution. For instance—a large value stolen. A labourer in the next parish to my own—known from youth, and hitherto unconvicted—stole two cows, and sold them in Gloucester market for nearly 30*l.* I fully joined in committing him for trial, that he might receive a heavy punishment: not ‘because he deserved it,’ for, as I have said, I hold that to be no reason, nor because the punishment repaid society for the wrong done—for it did no such thing—but to lessen the temptation to others to do the like. If a foolish young labourer were allowed to think that he could possess himself of 30*l.*—to his ideas, an illimitable sum, which might take him to America and start him in business, with only the risk of ten days’ imprisonment, it must be a heavy temptation to him; and this temptation must be met by a stronger deterrence. But where the object of the theft is three or four days’ drinking in Gloucester, I believe that ten days of bread and water would be a better punishment than three months of better diet. In the same way, a man who has never before been caught, but who, it is clearly shown, has been in the habit of stealing largely, should be treated nearly as if convicted for a second time: not ‘because he deserves it,’ but because heavy sentences in such cases make men nervous in continuing even a successful course of stealing; and also that time is required, where a habit of stealing has been formed, to give a chance of reformation.

These are exceptions which must be left to the discretion of each magistrate. It would, indeed, be an excellent thing if such cases were occasionally discussed at Quarter Sessions, so that still nearer principles of action might be adopted; but meanwhile such cases are rare, and may safely be left as exceptions.

But some of my friends tell me that the allowing of any exception at all is fatal to the rule. For my own part, I believe, on the other hand, that inasmuch as no human rule can be perfect, any rigid rule without exception is sure frequently to stultify itself.

But if a rigid rule be bad, I think that the absence of all rule is at least as bad. I believe that many counties practically pass nearly the same sentences that our resolutions suggest;

but I maintain that if one county publishes its rule—as a general rule—and acts upon it in three cases out of four, while another acts on the same rule in nine cases out of ten, without declaring its principles, the former will have done more to diminish crime than the latter ; because deterrence, which is our object, depends less on the fact of our sentences than on the people comprehending them.

But suppose that, in spite of the severity of the first short punishment, and of the almost certainty before him of a longer one if he be again found guilty, an offender be a second time convicted. Of course such cases will happen, although, I believe, far less frequently under the present than under the former system, or absence of system. Of course the second larceny may be of such an exceptionally trivial character that it may be properly treated as a first, or it may be so grave as to require to be treated as a third offence. (And herein is the advantage of leaving power to make exceptions in the hands of the magistrates, as can be done by a recommendation of Quarter Sessions, but as hardly could be done by Act of Parliament. I believe, however, that in nine cases out of ten at least the rule might stand.) It may at first sight appear that six months' imprisonment for merely stealing a spade is too severe ; but for stealing a spade after being let off lightly for a first offence, and having due warning of the consequences of a second—sinning with his eyes fully open—six months is not too severe.

But here arises another consideration. I have been at work myself as a gaol visitor for nearly forty years, besides what experience I could gain from my father, who worked and thought earnestly on the same subject. I confess that every year has deepened my impression that to shut a man up in a separate cell for six months even—far worse than two years—and then to thrust him forth carelessly on the world, without a friend or guide, is often a simple cruelty. For many years I have urged the necessity of adult reformatories, which might have been established without cost and with safety. Once or twice I was near gaining attention, when a political change removed a minister, or my own ill health prevented my pressing the suit. Now, however, I believe that the object may be gained by another means. Though boasting to be at heart a

radical reformer (not as regards lowering the suffrage, but as regards trying to turn bad laws to better), I would always rather try to make *the laws we have succeed*, by working them well, than by changing them for untried ones. We have not laws for adult reformatories, but we have them for police supervision. I believe that this power, *if well worked*, may be made nearly as effectual in smoothing a man's path from prison to freedom as the adult reformatory. This, I take it, depends almost solely on the Chief Constable and the magistrates who act with him. In every force there must be a lot of hard-headed strong fellows, very useful in a mob, or to walk fifteen or twenty miles across country, but of small reasoning powers, and often with a strong propensity to believe everyone to be a thief, and to worry him as such; even these may be improved by a little reasoning talk from the Chief or the Superintendent. But there are also a number of men of good thought and feeling, who will readily understand how to keep watch on a man, yet not to do him the slightest harm. If the Chief Constable employ the one set, he will obtain the one result; if he employ the other class of men, he will obtain the opposite result.

I have heard vague rumours of some police being very deficient in this respect, but it has always seemed to me that the rumour had very doubtful grounds. Let me give you a statement just received from our own Chief Constable, and if I boast that 'our police is the best in England,' I do so in the hope that a large number of Chief Constables will convict me of bragging, by showing better or as good returns.

Let me premise by explaining one passage. Previous to the Habitual Criminals Act all ticket-of-leave men were required to report themselves to the police monthly. This was no evil to an honest man, who once a month would take a quiet walk, drop into the police office, have ten minutes' chat with the Superintendent, and nobody else need know that he had done so. But this order has been repealed, and now the police have to find him, which—unless good care is used—may occasion uncomfortable feeling and draw attention to him.

It is much to be wished, both for the sake of the public and for the comfort of the convicts and habitual criminals, that the

original system should be restored.¹ However, let me give our Chief Constable's report:—

‘You are aware that since the Habitual Criminals Act came into force convicts on leave are not required to report themselves monthly to the police, as they formerly were obliged to do. I have, however, ordered the Superintendents to send me a quarterly return, detailing when they had last been seen, and also whether earning an honest livelihood; and the following is the result of the last return, made up to December 31.

‘I find the convicts on ticket-of-leave in the county to be fourteen, eleven males and three females. Of the males, nine have good character and regular employment, one good character and occasional employment, and one of good character living with his friends. Of the females, two good character and married, one good character regularly employed. These people are all seen by the police once in each month at least.

‘With reference to the masters knowing the antecedents of convicts in their employ I cannot give you a certain answer, as the police authorities are instructed not to interfere in any way with ticket-of-leave men, so long as they are apparently earning an honest livelihood. I find, however, that in a large majority of cases convicts return to the localities from which they were convicted, so that one may presume their antecedents known to their masters.

‘I do not know of one instance of a man being turned off on its being found that he was a ticket-of-leave man.

‘With regard to habitual criminals under the supervision of the police, the same answers will apply to them, except that they are even more strictly watched. A return is sent to me monthly as to their welfare. The particulars of this return, made up to February 1, are as follows:—

¹ This has happily been done in the Prevention of Crime Act of 1872. Not only convicts on licence, but offenders under police supervision, are ordered to report themselves monthly; and if they leave the district where they are established without giving notice to the police whom they are leaving, or if they remain forty-eight hours in any other place without giving notice to the police of the district to which they are come, they are liable to twelve months' imprisonment. This imposes a severe check on wandering criminals, yet does no harm to those who work steadily.

NUMBER UNDER POLICE SUPERVISION—27.

Earning an honest livelihood	14
Whereabouts unknown	3
In Union Workhouse	2
Ill and unable to work	1
Married women living with their husbands	3
Out of work	1
Committed for trial for larceny	1
Enlisted	1
Dead	1
	<hr/> 27

‘One of the above was convicted of an assault, and sentenced to ten days’ imprisonment in default of paying a fine.’¹

Such is the report of one Chief Constable; and where a supervision—friendly so long as good behaviour continues, but stern and searching where proofs of honest living cannot be shown—is thus maintained, I should prefer to leave them to the natural plan of finding employment for themselves, rather than introduce any artificial system of finding it for them by means of Adult Reformatories or Refuges. Few people are prepared to believe that discharged prisoners can find employment for

¹ This year I have a return from our Chief Constable (Capt. Christian, R.N.), who reports twenty-one convicts on licence in the county during the quarter ending December 31, 1871:—

Character good and regularly employed	18
Re-committed (housebreaking, 10 years’ P. S.)	1
Licence revoked for not reporting himself	1
Whereabouts unknown (supposed emigrated)	1
	<hr/> 21

Of those under police supervision:—

Earning an honest livelihood	24
Whereabouts unknown	11
Dead	2
Married and living with their husbands	3
Living with parents	2
In Gloucester Infirmary	1
Enlisted	1
Under sentence of imprisonment	4
Waiting trial at Gloucester	2
Living by prostitution	1
Out of work	1
Emigrated to America	1
Transferred to Bristol	1
	<hr/> 54

themselves, yet in Gloucestershire we see that they do it—while in London, where, I think, above 11,000 per annum are discharged from Coldbath Fields Prison alone, and all are offered work if they choose to apply for it, by the Prisoners' Relief Committee,¹ only about one in twenty asks for it. I believe that if this letter should induce many other Chief Constables to make known the state of the criminals under their supervision, the public would be disabused of a great fallacy, and would find the Habitual Criminals Act to be working much better than they had imagined.

For fifteen years I have employed our police to watch reformatory boys on licence, and have rarely had a complaint.

But suppose that after all the care, with a perfect knowledge of the punishment his next crime will bring, the criminal is found stealing a third time? If he be so, it must show plainly one of two things—either that he is determined in spite of all warning to continue his bad habits, or that he is too weak to resist temptation. In either case, it is the duty of the country—the duty to the public, and still more to the man himself—to secure him from a continuance in crime. This can be done in no way so well as by seven years' penal servitude. And be it remembered, that penal servitude is not the unnatural state of prison life. The convict has, indeed, a certain amount of solitude at first, but he is then moved to work in gangs; and such serious, steady, real work appears to have been performed by them of late years that they are said to have made the convict establishments nearly or quite self-supporting.

But let us turn to another view of the matter. Will any one tell me what would be the value to England of being entirely free from all clever, skilful thieves? What would it be worth paying to secure that ladies' jewel-boxes should not be broken open in their bedrooms in broad daylight, while their owners are at luncheon or dinner? Still more to secure us against the skilful and successful burglar? But most of all, to eradicate from the 'dens of crime' in our large towns the leading spirits, who can boast of large successes, and describe

¹ The Metropolitan Discharged Prisoners' Relief Committee, in connection with the Reformatory and Refuge Union, Spring Gardens. Not the discharged Prisoners' Aid Society, which latter assists only convicts.

how they are achieved—who can instruct the ignorant and cheer on the timid, each being in his own person a standing proof that the law need not prevent anyone from stealing, as he has himself been ten times in gaol and is not a bit the worse for it! and thus leading, instructing, and encouraging a younger race to succeed them in their profession? What, I say, would be the value to England of being rid of this evil?

You will say this is a dream of an impossible Utopia. I maintain that it is a result to be easily obtained. Look at the history of any expert thieves. Five out of six of the skilful ones have five previous convictions, at least, against them; and although a sixth may have only one or two, it is because he has been carefully taught, and has taken his teaching readily from the old hands. But how if there were few or no clever old hands to teach him?

Now, if it were made a rule throughout England—1st, that in all cases the antecedents of a prisoner should be sought for before determining his sentence; and, 2ndly, that a third conviction (unless exceptionally slight) would entail penal servitude, which would perforce stop an education in crime before he could have learned much; I maintain that we should have gone far to achieve our object. But, however we may reason on probabilities, a large and widely extended fact will do more to satisfy others than much argument.

In 1856 reformatories generally came into action in England, and the practice was adopted of sending to them (and therefore to a long detention) nearly every boy who was convicted for the second time or oftener. In that year 13,981 boys and girls were committed to prison, but the four following years the numbers were 12,501, 10,329, 8,913, 8,029—a remarkable reduction.

It may be said that this was effected 'by reforming the boys, whereas men can't be reformed, and so it won't apply to men.' (I trust that nowadays few would repeat this absurd old fallacy, but it is worth answering.) This could not have been the case for two reasons. 1st. That those committed in 1856 had hardly left the reformatories in 1859, therefore it was not known whether they had been reformed or not; yet the number convicted in England and Wales had diminished by more than one-third. 2nd. That only about one thousand boys and girls

were sent to reformatories each year, yet the numbers of committals were diminished in the four years by nearly 6,000 per annum—*i.e.* for one boy who had an opportunity of being reformed six were prevented from crime. I doubt if any law can be quoted which has produced so great an effect in so short a period. The decrease depended solely on the almost certainty of a long sentence on a second conviction, irrespective of the degree of crime unless in an exceptional case. I could show how in particular towns the same proportional diminution prevailed; and though in the succeeding ten years juvenile crime has increased with the increased population, yet even now it has scarcely passed two-thirds of what it had then arrived at, and which up to that year had been rapidly increasing.

But this is not all. The quality and degree are altered. In 1859 I was acquainted with many of the London boy thieves—some in my own reformatory, some in those of my friends, and a few in their lodgings. I took a census of the boys under 16 (a thing easily done from the prison books), and found at that time 456 boys committed for a fourth time or oftener, while 165 had been committed eight times or more. In those days we reckoned a boy to be becoming dangerous after his fourth conviction, but hardly to be received as a leader till his eighth. In February 1869 I wrote to Col. Colvill, the Governor of Coldbath Fields Prison, and asked him to tell me how many fourth-convicted boys he had received in the last few years; and he replied that in the last seven years he had received 74 such, or nearly $10\frac{1}{2}$ per annum, instead of nearly 456 per annum. Yet in 1859 the idea of ridding London of the accomplished eight-times-convicted boy leaders was considered quite as Utopian as the idea of extirpating the burglar, smasher, and street robber is at present.

Let me endeavour briefly to summarise the principles for which we contend.

1st. That punishment inflicted on a criminal, however valuable in its results, is not in itself a recompense to either the public or the person robbed; nor is it in itself a benefit to anyone; but, on the contrary, an expense and an evil to all concerned, except so far as it tends to prevent the culprit himself, or others, from committing crime in future.

2nd. That retaliation—the *lex talionis*—tit for tat—what he deserves—or serve him right—by whichever name it may be called, is not a desirable, or philosophical, or practically useful guide for the regulation of punishment, as being most difficult for the magistrate to allot fairly, and inefficient because little, if at all, understood by the class on whose minds we seek to act.

3rd. That if exact retaliation were our object, it is necessary that the punishment be not fixed till after the crime be not only committed, but its circumstances heard and considered. Whereas, if, on the other hand, our object be to prevent future crimes, that object will be attained in proportion to our being able to fix the punishment which is to deter from crime before the crime is committed.

4th. That if we seek to affect the classes who are most likely to be tempted into larceny—*i.e.* the poor and ignorant—we must adopt a system so plain and intelligible that they can understand it.

5th. That the system agreed to in Gloucestershire would meet these requirements; and

6th. That if it were generally adopted throughout England, we might hope for the gradual yet rapid extinction of the skilled thief.

NOTE.

Since writing the foregoing, an important step has been made. We have had for some time powers to give highly cumulative sentences for larceny or felony, but there were many minor offences, such as assaults, poaching, or drunk and disorderly, for which no cumulative powers were given. The repetition of offences in such cases has been fearful. In one gaol in one year more than a hundred women were committed, each of whom had already been there above thirty times. Many gaols of large towns could furnish nearly similar results. It may appear at first sight that a repetition of such offences as being drunk and disorderly could do little serious harm to the public; but this is by no means the case. Each ten-times-convicted offender is a standing, glaring proof of the inefficiency of our present system to prevent offences. Each shows that the law has tried to prevent a continuance of the habit, and has

utterly failed. Each shows that the gaol, in that case at least, has lost its terrors; and if the dread of gaol is lost, the 498,000*l.* which our county and borough prisons cost us last year is wasted.

If it be asked why I made no allusion to this subject in the first edition of this paper, I must reply that, though I felt strongly all that I have now said, I did not then see any immediate hope of getting an alteration made in the law, and I do not wish to expose a weakness till there is some chance of getting it remedied.

Now, however, the magistrates of Liverpool have taken the matter into consideration, and have unanimously passed the following resolutions:—

1st. ‘That it is desirable that the cumulative principle be applied to the punishment of all classes of crime and offences.’

2nd. ‘That it is further desirable that the visiting justices should be empowered, with the sanction of one of her Majesty’s principal Secretaries of State, to transfer well-conducted prisoners to Homes for a short period prior to the termination of their sentences.’

3rd. ‘That Mr. Raffles, chairman of the committee, be requested to communicate these resolutions, with an abstract of such portions of the report presented to this meeting as relate to them, to the Secretary of State for the Home Department, the members for this borough, the chairman of Quarter Sessions and recorders of boroughs throughout the country, in order to secure, if possible, their influence in obtaining such amendments in the present law as may secure the objects of the present resolutions.’

Most sincerely do I trust that the good work so well begun will not be allowed to drop, but will be taken up by the large towns (who require it the most), and also by the counties for the sake of the large towns. There may and must be difference of opinion as to the details. The establishment of Homes or adult reformatories as a kind of minor penal servitude, giving long detention with milder (and less expensive) discipline for habitual petty offences, may or may not be generally approved. But if a simple and intelligible system of punishment can be generally adopted through England, I believe that the effects

would be little inferior in value to those attained among juveniles by the reformatory system. Those effects were the reduction of the juvenile commitments from 14,000 per annum to 8,000. The total commitments of England were last year 173,115 (or, deducting debtors, want of surety, &c., 154,159). If we could cut off the proportionate *expense* of 60,000 commitments per annum, it would be worth doing. But how much more if we could save 60,000 of our fellow-creatures each year from offending!

Forgive me if I add another consideration, which may be of interest to many. Some truly philanthropic Americans, who have devoted their lives to the great question of the prevention of crime—or, in other and truer words, the lessening to others that temptation from which we pray to be delivered—have arranged with the governments of nearly all the civilised nations of the earth to send deputations to an International Congress, to be held in London next July, on the best means of preventing crime. Will not mere national pride—to say nothing of higher motives—dispose us to set our own house in order before our visitors arrive?

JUSTICES' JUSTICE.¹

In former years some of your correspondents often wrote on the above question, sometimes finding grievous fault, sometimes only asking for information with regard to sentences passed upon prisoners, many of which, to those who had not studied the question, appeared strangely disproportioned to the offences. I was always rather glad to see these letters, especially when they came in the shape of questions; but to me even the violent attacks upon our mismanagement were not unwelcome, because they showed an interest in the subject and gave us an opportunity of explaining our reasons for what we had done. I would by no means find fault with the gentlemen of the press because they do not give all the points upon the consideration of which

¹ Letter to the editor of the *Gloucestershire Chronicle*, June 28, 1879.

the sentence depends. They generally have not specially studied either the law or the repression of crime (two subjects supposed by many to be identical, but really having scarcely any connection with each other); but even if they had done so, a full statement of the case would make the report too long to be acceptable to the public. I think it better that a few cases should be now and then found fault with, whether civilly or not, and that those cases should be explained, so that the public may understand the principles on which we act, which nowadays are generally simple and capable of a clear explanation. I have lately remarked some cases at our Quarter Sessions which might fairly have called forth a bitter attack, had anyone felt disposed to find fault; but as no one seemed inclined to exclaim against the monstrous iniquity of our sentences, and as I should be sorry that the public should cease to take interest in them, I should be glad myself to point out some of the strongest cases.

At the October Sessions of last year No. 26 was proved to have stolen two pecks of beans, and received a sentence of seven years' penal servitude, followed by five more of police supervision—12 years of more or less of punishment for a theft of 2*s.* 6*d.* in value; while No. 30, a woman 28 years old, for stealing seven dresses, two petticoats, &c., with two previous convictions, received a sentence of one day; No. 35, having stolen a bridle, was sentenced to six months; and No. 36, for helping him, received seven years' penal servitude and five of police supervision.

Or if we turn to the last Quarter Session, what can be said of such sentences as No. 2, stealing an old overcoat and a shirt, seven years' penal servitude and five of police supervision; while No. 10, who broke into a house and stole 27*l.*, received a sentence of one month?

Such sentences may give ample cause—to anyone who believes that he can form an unerring judgment from the bare statement of the theft and its consequences—to conclude that Justices' justice is very irregular; and even if they pick out cases from the decisions of stipendiary magistrates learned in the law—or possibly even from those of her Majesty's Judges—many cases would be found which would appear to be far from just or reasonable.

Yet the chief value of a sentence, so far as it lies in the deterring others from like offences, consists in its reasons being intelligible to the public. The interest and good feeling of the more respectable class are of great importance to us, while the very possibility of an effective deterrence to the least respectable portion lies in their having a clearly-defined notion of what will happen to themselves in the event of their being caught in the commission of crimes.

Let us look farther in the case of No. 26, above mentioned. We find that in February 1860 he had stolen a necklace, and received a month's imprisonment. In April 1867, long enough for his former offence to have been condoned had his next been a light case, he committed a burglary, and received eighteen months' imprisonment. In June 1873 he again stole a large quantity of cloth, and received two years' imprisonment and two of police supervision; and with fifteen months of the watch of the police being withdrawn he steals two pecks of beans, the property stolen being of trifling value, but the theft being a clear proof that either the man was determined to continue offences against the law, or that from some moral obliquity he was unable to restrain himself, and the law was bound to restrain him. We have good hopes that after twelve years of more or less supervision he may be trusted to take care of himself. It must be remembered that our object is not simply the punishment but the benefit of the culprit himself; and that *no cruelty to him is truly so great as the permitting him to continue a life of crime.*

But now let us take the case of No. 30. In April 1876 she was convicted of stealing watches, and received six months' imprisonment. In June 1877 she received twelve months' imprisonment and three years of supervision. Three months after she left prison, and while still under supervision, she steals seven dresses. How can it, then, be justified that she should receive only one day's imprisonment? Simply by the fact that the week before her trial at the County Quarter Sessions she had been tried for another offence at the City Sessions and sentenced to seven years' penal servitude.

Again, No. 35 stole a bridle; a small theft, but he was a tramp who could give no account of himself, while his com-

panion who helped him had been caught stealing a concertina at Worcester in 1871, and again had received 18 months for stealing a watch at Hereford in 1875, besides being seven times summarily convicted.

So in our last April Sessions No. 2 had been twice convicted upon indictment, and six times summarily, his last sentence having been twelve months' imprisonment for burglary.

The last case was that of an old man, decrepit in body and weak in mind, with no previous offence except his poverty, who pulled a very unresisting fastening from his brother's door and took a bag containing, as it happened, 27*l.*; but he at the time did not know how much, and did not know what to do with it when he had got it. A strong appeal was made to the Court for a light sentence on account of his age and previous good conduct. I saw him several times in prison after his sentence¹ and he seemed of weak mind and to suffer more in his month than most men do in twelve.

I do not, indeed, anticipate or hope that all will agree as to the exact amount of punishment awarded in each case. Even if I could give the whole of the evidence, it could not be expected that all would agree; but I trust that I have shown fair reason to believe that Justices' justice is likely to have more reason in it than those who merely see the outline of a crime and its sentence might suppose.

While I am on the subject, let me give a short sketch of the variety we find in the amount of crime between one quarter session and another. The three last are curious instances, and though I consider the money cost to be insignificant in comparison with the reduction of crime, it is well to consider it in connection with the other.

At the October Sessions there were 44 prisoners; in January, 38; and in April, 15. In penal servitude, the prisoners, being kept for long and becoming accustomed to their work, earn a good deal, and, exclusive of their earnings, are reported to cost only 14*l.* 4*s.* 5*d.* each in the year. (Indeed, were it not for the large numbers weak in body or mind, they would support themselves and a costly staff of officers.) In the short-term prisons, which used to be called gaols, they can in most cases earn very little, and each cost in 1877 on an average 25*l.* 14*s.* 6*d.*

OCTOBER 1878.

	Years	Months	Cost
			£ s. d.
5 sentenced to penal servitude .	31	0	440 16 11
6 " above six months .	6	6	167 4 3
13 " for six months . .	6	6	167 4 3
10 " shorter terms . .	1	7	40 14 7
10 acquitted			
44			£816 0 0

JANUARY 1879.

	Years	Months	Cost
			£ s. d.
0 sentenced to penal servitude .			
5 " above six months .	4	6	115 15 3
3 " for six months . .	1	6	38 11 9
24 " shorter terms . .	3	1	79 6 4
6 acquitted			
38			£233 13 4

APRIL 1879.

	Years	Months	Cost
			£ s. d.
3 sentenced to penal servitude .	19	0	270 3 11
3 " above six months .	3	6	90 0 9
2 " six months . . .	1	0	25 14 6
6 " shorter terms . .	0	8½	18 4 5
1 acquitted			
15			£404 3 7

I think the January sessions was the lightest in degree of crime that I have ever known, as was certainly our last in point of numbers, there being only 15 prisoners, 11 of whom pleaded guilty, and only one was acquitted.

By the way, let me add that at a meeting of our Social Science Council in May a letter was read from Lord Aberdare, begging that the system which has hitherto been called cumulative (a wrong term, properly applied to a different sentence) should be henceforth called the *progressive* system. I rejoice that he has done this. I found the name, and did not consider that I had weight enough to change it, and cared more for advocating the system than for correcting the title; but I am glad to have high authority to call it henceforth by its proper name of the progressive system.

INEQUALITY IN PUNISHMENT.

(1885.)

Preface.

IN the September number of the 'Nineteenth Century' Review an article appeared by the Lord Justice Fry on Inequality in Punishment, in which, after combating the opinions of Beccaria and others on the subject, he appears to sum up in these words: 'In a word, then, it seems to me that men have a sense of the fitness of suffering to sin, of a fitness both in the gross and in proportion; that so far as the world is arranged to realise this fitness in thought, it is right; and that so far as it fails in this arrangement, it is wrong, except so far as it is a place of trial or probation; and consequently that a duty is laid upon us to make this relationship of sin to suffering as real and as actual and as exact in proportion as it is possible to be made. This is the moral root of the whole doctrine of punishment.'

He afterwards, however, allows (pp. 523-4) that 'there are other ends which society has in view in its infliction,' namely, '(1) the reformation of the offender, (2) the prevention of further offences by the offender, (3) the repression of offences in others;' and that if any one of these ends calls for more suffering than the others, 'the greatest punishment justified by any one independent reason ought to be inflicted' (this appears considerably to interfere with the exact proportion of suffering to sin); but he gives no clue to judge what sentence would be in proportion to any crime, or how the sentence is likely to effect either the reformation of the offender or the repression of crime in others. Indeed, he holds that 'the principle of prevention in the criminal law is embodied rather in the police than in any action of the courts.'

Believing that the infliction of God's vengeance is imposed by Divine law on 'rulers,' or others authorised by them, but that no directions as to amount are given us, while prevention, so far as we can effect it, is equally inculcated by laws Divine and human, whether as a duty to our poorer neighbour as Christians, or to the State in our capacity of magistrates;

believing also that the prevention of crime may be greatly effected by the sentences passed by judges and magistrates, if those sentences are governed by principles intelligible to those they are intended to affect, I venture on the following observations.

When a man so eminent in one of the highest of learned professions as the Lord Justice Fry has given his opinion on the subject of the sentences passed on criminals, it would appear an unwarrantable presumption in a simple country squire without a pretence to talent—without even the skill to write a tolerable essay—to attempt to give any comments at all on his views. Yet as the opinion of a foreigner on an English subject may be worth considering, so I would ask permission—scarcely to differ from him, but to add some suggestions on a subject which I have seen from a different point of view.

Though I have none of the advantages of the Lord Justice in a deep study of law, yet for fifty years I have been much in the habit of conversing with criminals in prisons, in tracing and meeting many of them after their discharge, and endeavouring to discover their real opinions and feelings; and for thirty years I have studied the characters of boys in a reformatory, whose confidence is more easily obtained, and whose characters in their variety give one more clue to the characters of men than might be expected by those who have not had opportunities of comparing them.

I have always fully believed our bench of judges as a rule to be as talented and honourable a set of gentlemen as can be found in any profession or in any country in the world; and if one of them could have afforded one-tenth of the time to the study of criminals that many mere squires have given, they would have mastered the subject more fully than we have done; but when we consider that the only opportunity a lawyer has of such a study is through a brief drawn by a solicitor, giving the evidence bearing not in any degree on the prisoner's motives, but only on the question whether he did or did not commit the crime; and when even this study is given up after the first few years of a lawyer's career for the higher branch (as it is considered to be) of the law, dealing not with crime, but with money; it then appears only marvellous that from such slender

evidence as is afforded in court our judges can trace the motives as well as they do.

To consider, however, Lord Justice Fry's paper, I should differ only in words from him when he says that there are three objects which sentences should seek to attain; viz., adequate punishment, prevention, and reformation. I should prefer to speak of two objects, viz., retaliation (some will object to the word, but I use it in its literal sense of weighing back an amount of punishment equal to the crime) and prevention; the latter being effected—so far as sentences are concerned—(1) by deterrence; (2) by lessening the number of bad companions; (3) by police supervision, &c.; (4) by the fostering of a righteous indignation in the public against crime—not against the criminal. All these are important means for the prevention of future crime.

Perhaps, however, I might venture to differ somewhat as to their relative value. Retaliation or vengeance should be placed first—not because the public expect it (public opinion should not govern the judges, but the judges should rule public opinion, as they would readily do if they were fully understood), but because it is a Divine command.

'Vengeance is Mine, I will repay it, saith the Lord.' How? 'Rulers are not a terror to good works, but to the evil.' 'But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a *revenger* to execute wrath upon him that doeth evil' (Rom. xiii. 4). Rulers, then, or those appointed by them for the purpose, are called on to execute vengeance on those who do evil, but so little clue is given to the amount of punishment to be inflicted, and if we were to examine any hundred men on the subject, we should find their opinions differ so widely, that till the matter shall be subjected to discussion, if even then, no one can say what punishment is the exact equal of any crime.

As to the second object, that of prevention, I trust I may be permitted to show why I believe that it is not, as the Lord Justice says, a matter rather for the police than the judges. I believe it to be, so far as practical utility goes, by far the more important of the two, and the more dependent on the sentences passed. Let me give what I grant is the strongest instance of

this I have ever known, but one which I watched with the greatest care.

In 1856 reformatories first came into action in England, and the managers generally agreed to a course of action different from that which had been adopted in other countries, namely, to refuse to admit boys sent on a first conviction, and to reserve their room for those who had been previously convicted once or oftener—sometimes ten times. Up to the end of 1856 boys were punished by one, two, or three months' imprisonment time after time; and I have still a list of 465 boys under sixteen, living in London, who had been four times or oftener convicted (160 of them eight times or oftener). Up to that time children's crime in England and Wales had been steadily and rapidly increasing; and in 1856 the children convicted had reached a total of 13,981.¹ Many of these were habitual, hardened, and skilled thieves, who probably stole fifty articles for each time they were caught, and who corrupted and instructed beginners in crime. In 1860, however, the total number of children convicted had fallen to 8,029;² and of these, except in London, which took longer to clear, few had been more than once previously convicted, or had the skill to steal much without detection. Some may say that this great reduction was caused not by prevention but by reformation. This, however, was not the case; the reduction of crime took place before many boys had been let out of the reformatories, and therefore before it could be known whether they were reformed or not. It was simply due to judges, magistrates, and justices letting it become known and understood that *nearly* every boy convicted a second time would receive a long sentence in a reformatory. The corruptors and instructors in crime were removed; the younger boys were deprived of all chance of acquiring skill and rising in their profession; and thus fewer entered upon and far fewer continued in it. As a result, the number of children convicted has sunk, in spite of the increase of population, from 13,981 in 1856 to 5,700 in 1882.

But if I rightly understand the Lord Justice, he seems to imply that, although prevention and reformation are to be taken

¹ Judicial Statistics of 1856, p. 84.

² Judicial Statistics of 1860, p. 68.

into consideration, and if the carrying out of either of these demands a more severe punishment than would be called for by the sin of the offence committed, this heavier punishment should be inflicted (p. 526), yet that they are of less dignity than retaliation, and rather to be suffered to exist than treated as important and essential. Yet surely, while allowing the high authority for retaliation, is that of the others less high? Is not the teaching of the prayer, 'Lead us not into temptation,' equivalent to a command, so far as we can, to lessen temptation for others? But the whole of prevention consists in the lessening or counteracting temptation. The removal of bad companions—the fostering in the public a righteous indignation¹ against crime (which has the merit of becoming among the more ignorant class an instinct rather than a reason, and, therefore, of being felt in moments of passion or drunkenness, where reason would not be heard), are both means of *lessening* temptation. Deterrence, or bringing intelligibly and clearly to a man's mind what will be his punishment if he is caught sinning, together with a kind and careful supervision by the police, helping him as long as he lives honestly, and detecting him if he relapses, are means of *counteracting* temptation. Some, indeed, say that they care little for merely keeping a man out of actual crime, unless they can make him soundly and truly religious. I indeed would gladly do the latter where I can, but where I cannot I am well satisfied to bring him in any degree more within the reach of good influences.

If this be so, may we not say that if the ministration of punishment be glorious, the ministration of saving from crime is yet more glorious?

But there is another view to be taken of the subject. We who are in more or less authority—from the highest to the lowest, from the Lord Justice to the County Justice—are bound, as I hold, to do what we can for the benefit of the common weal, to check vice and immorality, and to protect property. The former of these considerations may be the higher, but the latter is still a duty to the public, not to be neglected. Now the simple view of retaliation neglects this duty to the public

¹ Vide *Liberty, Equality, and Fraternity*, by Sir James Fitzjames Stephen, p. 150.

altogether, except by making it known that if a man is caught in a crime, some punishment, large or small—he always hopes the latter—will probably be inflicted. So hazy an idea will have little effect, either in lessening temptation to the criminal or in saving the property of the honest.

If our sentences are to have a preventive effect, if they are to satisfy the public—not by the judges adopting the views which the public hold, but by their leading the public to a better course of thinking ; if they are to excite what Sir James Stephen speaks of as a righteous indignation against crime ; and lastly, if we are to deter with good effect, and to save many men from sin and many goods from being stolen, then the reason for the sentence must be intelligible, not only to the talented members of the bar, nor yet to the educated aristocracy or to the middle classes, but to the very lowest and stupidest of her Majesty's subjects : for, after all, these form the class most tempted to steal, and therefore the class standing most in need of prevention. To them the subtle distinctions which occur to the acute and highly trained mind of a judge, even if the very meagre evidence of motives adduced in court be sufficient to afford a fair opinion, are but as words in an unknown tongue ; 'and if the trumpet give an uncertain sound, who shall prepare himself for the battle?' 'I had rather speak five words with my understanding, that I might teach others also, than ten thousand words in an unknown tongue.'¹

The judge may be—probably is—perfectly right in his view, but unless he is understood he indeed 'edifieth himself,' but is useless to others. A case was much and adversely discussed in the summer of 1881, in which a very eminent judge tried two men for apparently similar crimes on one day, and sentenced the one to six weeks' imprisonment, and the other to five years' penal servitude. A legal friend wrote to me on the subject : 'I have no doubt that the judge had good reason for what he did, and very likely he was the only person in court who had paid sufficient attention to the cases to be able to distinguish the different amount of guilt displayed in each of them.'

I think that probably my friend was right ; some evidence must have appeared to show that the one man deserved less

¹ 1 Cor. xiv. 8, 19.

punishment than the other ; but whether, if the evidence had been arranged for the purpose of showing the motives and not merely the fact of guilt, that evidence might have led to a different opinion, we cannot say. Be that as it may, the fact that the sentence was not understood did practically serious harm, both by giving an impression to the middle classes that judges' sentences were strangely capricious, and still more by leading the lowest class to believe that it was all a chance whether crime was seriously punished or not.

But if so many points are to be considered—exact retaliation, reduction of crime by various means, gaining the approval of the public, and thus disposing them to work with and help us (a most important object)—what chance have we of finding any system which will enable all these to be worked without clashing? It is doubtless a difficult problem. I think, however, that for cases of larceny and the like, which form above three-fourths of the total number which come before our courts, one system, if adopted as a general rule with *few* exceptions, will meet all the requirements. This system was recommended for adoption by the Epiphany Court of Quarter Sessions of Gloucestershire in 1871, and its effect I have carefully watched for twelve years. It was at first, not happily, named 'the cumulative system,' but Lord Aberdare five years ago gave it the more proper title of 'the progressive system.' Here the sentence is made to depend not so much on the amount stolen as on the presence or absence of previous convictions. Thus a first conviction is *usually* punished by from one to three months' imprisonment; a second, if within five years of the former, by six months' imprisonment, with four or five years of police supervision; and a third by penal servitude. This gives a fair retaliation. The first time that a man steals he seldom realises to himself that he is stealing. He calls it 'taking.' The feeling of his mind at the time was probably not very far from innocence, and a month's consideration in a separate cell does in most cases secure him against any temptation to relapse. If, however, he does relapse, the case is very far worse. He has sinned against warning. He has fully known the consequences of doing so, and this knowledge was insufficient to restrain him; on the mere ground of retaliation he requires more punishment,

and the six months' imprisonment is well deserved. The police supervision which follows, if well carried out, is a punishment or not according to his deserts. If he will live honestly, the police will help him in every way, will assist him to find employment, and will aid him, not to conceal the truth, but to regain a character. If he relapse a second time, it may fairly be taken as a proof that he is determined to oppose the law, and the law must either give way to him or conquer him. Hence penal servitude is fairly deserved, though the actual theft may be trifling.

But if this system will satisfy the object of retaliation, the not less important object of prevention is especially secured by it. During the month's imprisonment for a first offence, the governor, the chaplain, the warders frequently remind him that he has now a very short sentence, because it is hoped that he scarcely felt that he was actually stealing, but that if he comes again his sentence will be far more severe. This frequent repetition, with time in his cell to think it over, fixes the idea in the dullest mind, and strongly counteracts the temptations which assail him when again set free. While as to gaining the goodwill of the public, though I certainly remember some surprise when ten years ago a man was sentenced to seven years' penal servitude for stealing a loaf of bread, yet all were satisfied when the reasons were explained, viz., that he had broken open a cottage on his way home from work, and that the loaf was found in his room with three others (showing that he was not in want), and that he had been twice before convicted; and since the system has been understood, it has, I believe, been universally approved. In former days we, like others, used occasionally, though rarely, to have unpleasant things said about 'justices' justice;' but we met them readily with an explanation, even occasionally drawing attention to some sentences that at first sight appeared strange, and explaining the reasons for them. And for the last ten years, while I have frequently talked on the subject with men of the middle class, I have found many of them to take an intelligent interest in the sentences, and to be ready to work with us in exciting what Sir James Stephen calls a righteous indignation against crime.

I may be asked what effect the system has had in the eleven

years during which it has been tried. It is difficult to define the effect of a special cause, unless where it is unusually marked, like the decrease in children's crime after 1856, as mentioned above. But I have just looked through the copies of the Calendars for 1870 and 1871 (as printed for the Home Office, with the sentences and previous convictions); and I find that in those two years four hundred and fifty-five prisoners were tried at the assizes and quarter sessions of the county. Of these, sixteen had two previous convictions by indictment, eight had three, three had four, and one had seven—twenty-eight in all. Two previous convictions for indictable offences show generally a serious amount of habitual crime.

In 1881 and 1882, however, two hundred and seventy-six prisoners only were tried, of whom nine had two, five had three, and three had four previous convictions—seventeen in all. This has been a large reduction, both in the numbers and in the degree of proved criminality. We cannot show that it was entirely a direct consequence of the progressive system. Some other counties have reduced their numbers nearly as much, while the total of England and Wales is very nearly the same as ten years ago; but we are, I think, justified in believing that a large portion of the reduction is owing to the fact that a prisoner has clearly impressed on his mind the sentence that will probably be passed if he relapses.

I have said that the above was our *general* rule; but a rigid rule must often stultify itself. A few exceptions must be made; *e.g.*, I remember a case of a labourer, who had never been suspected of stealing anything, driving off one night two cows and selling them in the market for above thirty pounds. To have passed a light sentence in such a case would have been to offer a strong temptation to any ignorant foolish fellow to fancy that with little risk he might get money enough to go to America and make a fortune. Sometimes, again, a half-witted lad will steal the merest trifles time after time, and we can hardly give him a long sentence; but exceptions in rare cases do not interfere with the action of a general rule.

But there are other means of prevention, of which judges officially hear but little; yet we can hardly doubt that they would be glad to know more about them, from seeing the kind

interest they generally take in the poor men whom it is their duty to punish. I allude chiefly to the action of police supervision and Discharged Prisoners' Aid Societies; the former depending on the judges' sentence for existence, the latter often exercising an important influence on the after life of the prisoner. The effect of the first, though I think always beneficial, is much more so in some counties than in others. In many the ex-prisoners learn to look on the police as their best and most helpful friends; and when this is the case, the habit of seeing and talking as a friend with a policeman, and the knowledge that a policeman knows him and his ways, form a very strong counteraction against any temptation to relapse. The agency of the Discharged Prisoners' Aid Society removes the temptation caused by possible destitution or despair. In the county of Gloucester, indeed, the two are united—the police acting as agents for the society, and the superintendents being provided with money to help any who really appear to require help—but this rarely occurs. It is, however, a great advantage that every ex-prisoner has, so long as he lives honestly, a friend within a few miles of him, to whom he can apply in any difficulty. It may be said that these matters, as depending chiefly on the county authorities, are not within the cognizance of the judge; yet may I suggest that if any holding that high office should wish to know what is done in each county where he may be about to hold an assize, a set of very simple printed forms would be all that is needed? One might be sent to the governor of the prison, asking, 'Have you a Prisoners' Aid Society?' 'What number were discharged from your prison last year?' 'How many of these were aided by the society?' 'Can you give any result of their work?' Another might be sent to the chief constable, asking, 'How many are under sentence of supervision in your county, and how many convicts on licences?' 'How many of each appear to be earning an honest livelihood?' 'How many "doubtful," *i.e.* drunken, idle, or prostitute?' 'How many relapsed, and in prison or penal servitude?' and 'How many absconded and lost sight of?' Such a procedure would give the judge a tolerable idea as to the probable future of those who were sentenced, and would gratify and give a stimulus to those engaged in either of these agencies, while a

mention of those agencies from the bench to the grand jury would have an excellent effect on the public.

It will be said, however, that the progressive system, where it is adopted, meets only one class of crime, which, though numerically the largest, is the easiest to deal with, and where each individual offence is generally of less importance than those crimes of passion which are less likely to be repeated. This is true; yet if for three-quarters of our criminals we can greatly lessen or counteract the temptation to relapse, and thus materially diminish the crime of the country, surely a valuable work has been accomplished.

I have ventured to express a fear that sentences allotted by judges on the pure retaliation system may not be always such as might be wished, not from a doubt of their high talents, or of the great care which they bestow on these cases, but from a deficiency of evidence as to motives, of which but little is usually brought into court. Suffer me to explain this by a case which occurred some years ago. A labourer and his wife had died many years before, leaving two girls. A kind neighbour, who had no children, adopted the girls, and was bringing them up kindly and well. When the eldest—a very pretty child—was about twelve years old, a man and a woman called at the house and asked to see the child and to take her for a walk. They took her away and did not return. The police were set to work. The man and the woman were heard of in different parts of the country, and were twice nearly captured, but showed great cleverness in escaping and carrying off the child with them. At last they were taken, committed to prison, and tried for abduction at the quarter sessions. They had refused to give any account of themselves. The evidence of the fact was clear. The child said they were kind to her, but they took her to some horsemanship show, and she was frightened at the clown; and the man got drunk, and she did not like it. The prisoners were asked if they had anything to say to the jury in their defence, and again whether they would say why sentence should not be passed; and they said nothing. They were committed, I think, for six months. As they turned to leave the dock the woman muttered something indistinctly. The chairman called her back, and desired to know what she said. She again said something

in a tone little above a whisper ; but a counsel told us that she said it was hard she should be punished for taking her own niece from a man who was no relation to her. The witnesses were recalled, but none of them knew the woman, or believed that she was related to the child. The chairman said that the sentence must stand, but that he would make inquiries.

Not long after this the chairman and I took a railroad journey and a pleasant walk, and called at several cottages. Most of the people knew of the case, but nothing of the prisoners ; we found, however, several who quite well remembered the mother of the child, and her sister the prisoner. They stated they did not want to come forward, as the prisoners were leading a rough, unsteady life, and it would not be good for the girl to go with them.

The story was sent to the Home Office, and the prisoners were released at the end of two months ; but the girl still remains with her *quasi*-father.

I never had the opportunity of tracing another case so clearly as this ; but I have many times had strong reason to believe that the evidence brought solely for the purpose of showing the guilt or innocence of the prisoner often omitted what might be valuable as indicating the motives for the offence.

Let me now ask whether I have made out a case for a full consideration of the subject. I am aware that the authority of numbers is against the view I have taken, but what are the reasons adduced on either side ? Lord Justice Fry upholds his view because men have a sense of the fitness of suffering to sin. This is doubtless true, but it hardly appears a strong reason, as men have many senses which are by no means to be encouraged. The 'Spectator' newspaper attacked the Lord Justice's reasoning, and declared that 'the connection between sin and suffering is evolved from the desire for revenge. The savage, when his child breaks a basket of eggs, takes him up and breaks his skull against a rock in revenge. The child, when a chair falls on its foot, kicks and bangs the chair in revenge ;' and thence concludes that we should adopt the principles of the savage or the child. Strange that such an idea should be publicly advocated !

We, who take the other view, claim as our authority—first, Holy Writ ; and secondly, the 'utilitarian theories,' which it is

the fashion to repudiate, of (a) *lessening* temptation by the removal of bad companions, and by the fostering in the public of a righteous indignation, and (b) *counteracting* it by a carefully arranged deterrence. We hold that the lessening the crime of a country is, as an American friend lately wrote to me, 'an object worthy of the best thoughts and the best efforts of our best men ;' and we believe that crime would be greatly reduced if those whose duty it is to allot punishments would agree to act, not on a rigid rule—such must always stultify itself—but on a general rule which the public, even the lowest of them, could understand, and which should be seen to have for its object the 'utilitarian theory' of not merely carrying out an abstract principle, but of lessening the amount of crime in the country with its misery and cost.

If we are called on to obey a precept enjoined by Holy Writ, or by the laws of the land in which we live, we allow either of these to be an authority which we are bound to obey irrespective of the belief that the consequences of our obedience will be beneficial. If a course of action be recommended which claims no authority, but which appears likely to be beneficial to the public, this is a reason at least for our considering it. But we can hardly be expected to accept a dry precept without hope of benefit or utility to any one merely because savages and children have acted upon it, or even because men (at a time when the lessening of crime was even less thought of than now) seemed to have a sense that it was right—just as certainly many of them had a sense that it was at least pleasant to appropriate their neighbours' goods.

It surely is of the first importance in any great undertaking to have the public working with us and not against us ; but how can the public be expected to take a hearty interest in carrying out a mere dry principle founded on no law, Divine or human, but on a sense which men seem to have possessed from remote time ? The public are not so foolish or so obstinate as they are supposed to be. They will not indeed care for a dry principle with a weak foundation, but show them a good hope that crime may be lessened for the future, *i.e.* property rendered more safe, the enemies of order diminished in number, violence, and power, the cost of crime reduced, and (which many good men will join

me in wishing for more heartily than for the former objects) the weak less tempted to crime—in short, show them that, instead of eliminating all utility from our objects, we seek to do as much good and to be as useful as possible, and the public will enter into and heartily support our endeavours.

Some, however, appear to doubt whether any diminution of crime is possible. We are told by many writers that deterrence has no real effect. I maintain that deterrence had a large share in the great reduction of juvenile crime after 1856 of which I have before spoken ; but to go beyond this, let me ask any one to imagine—if he can imagine such a thing—all punishment withdrawn. Can any one doubt that, were such a state possible, crime would increase a hundredfold ? If any doubt it, he knows but little of the nature of criminals. If this be so, deterrence, though never studied, never discussed, seldom even alluded to as an important object in the apportionment of sentences, even now prevents ninety-nine hundredths of the crime that would exist without it. Were all the means of the reduction of adult crime carefully studied and carried out, I doubt not that the effect would be little if at all inferior to that produced on juvenile crime from 1856 to the present day.

CUMULATIVE PUNISHMENT.¹

ALLOW me to thank your correspondent ‘A. B.’ for his remarks on cumulative punishment, and to explain why I have hitherto confined my principal writing on the subject to cases of felony.

In getting a new system carried into operation there are two distinct parts to be considered : first, the getting laws passed which will enable magistrates to carry out the system ; and secondly, the showing to those magistrates reason for its adoption.

In cases of felony the law has now for some years afforded power for carrying out the cumulative system quite as fully as is necessary ; and the principle has been affirmed—not only in

¹ Letter to the editor of the *Wilts and Gloucestershire Standard*, August 23, 1873.

our own county, but in Liverpool and Manchester—and approved by a large number of magistrates throughout England. But in the cases of ‘drunk and disorderly,’ assaults, and many other ‘minor offences,’ there is little or no cumulative punishment allowed, though nearly every step in legislation increases it in some degree.

Before urging on magistrates the adoption of cumulative sentences for these minor offences it is necessary that power should be given them by the law to carry them into effect. They might, it is true, be carried very much further than is usually the case.

In one gaol report, of some years ago, it was officially stated that in that year 111 women had been convicted, each for above the thirtieth time (several of them above sixty, one 129 times). Most of these were three-day sentences for being drunk and disorderly, or some such charge. I can hardly imagine a system more calculated to encourage crime. It is obvious that the mere punishment of an offender has in itself no good, but simply evil. It is against all our best feelings, it is costly, it is troublesome. It is only good so far as it prevents the criminal himself from offending again, or others from following his example. If a sentence of imprisonment is made a thing to be dreaded, it is highly useful in counteracting that temptation from which we all pray to be delivered; but the keeping a man or woman in prison is (apart from the deed) solely an evil, a trouble, an expense. Now how could any one in that town have a dread of being sent to prison when he or she knew that there were probably in the same street several others who had been sent there thirty times or more, and yet were going on just the same as before? If we gained any benefit by the mere punishment, such a system would be intelligible; but if, on the other hand, the only object in punishment be to prevent crime, let power be given to prevent it. If the being ‘drunk and disorderly’ is not worth prevention, let the laws be withdrawn; but do not let the law stultify itself and make itself a mockery by weak endeavours, which only encourage habitual defiance.

I believe that the evil might easily be remedied by a simple enactment—that where, in cases of minor offences, a previous conviction within two years was proved, a sentence might be

passed of double the amount of the last sentence. This would not be hard on an occasional offender, but it would be an absolute prevention of a continued habit of offence. If the first sentence were for three days only, and if the justices thought fit to double it each time, the ninth would be for more than two years, and therefore must be penal servitude (of course it must be arranged that all sentences above, say, three months must be given by quarter sessions). Yet this, though it would be excessive for a mere case of drunkenness, would not be excessive for a long course of setting the law at defiance, and leading others to do the same.

Assaults too—at least moderate ones—may be well treated, if first offences, with leniency; but a man who cannot restrain himself from frequent striking is dangerous, and ought to be restrained by long sentences, if in no other way.

I said ‘moderate’ assaults. But there are, unhappily, a set of fearfully serious assaults, increasing in number year by year, which I heartily wish were visited with cumulative punishment indeed, but even beginning with long sentences. Can we believe Colonel Henderson’s report—that trifling assaults on the metropolitan police are not noticed, but that 3,692 such cases were brought before the metropolitan magistrates in the year 1872, and that only thirty-two were committed for trial, the rest being punished by fines or short imprisonments? We wish that ‘the reticence of office’ did not forbid the magistrates from denying or explaining a charge which, as the ‘Times’ says, ‘is simply shocking.’

But there is another question to which I know not whether ‘A. B.’ meant to allude, but which, I trust, may some day come to the front. I have spoken of ‘drunk and disorderly.’ How about the being drunk without disorderly? I cannot but hope that this too may some day be treated by cumulative punishment so as to prevent ‘a habit’ of drunkenness wherever it be proved. Many would no doubt escape if they shut themselves up to drink, and if none of their family complained; but if the case were found and proved, a punishment, very slight at first, but doubling, would save the body and soul of many a one.

It is often said that ‘you cannot make men moral or sober by Act of Parliament.’ How such an absurdity ever came to be

stated or to pass into a proverb, 'no fellow can understand.' What is the use of any law but to prevent offences? and if you keep men by fear or by the lack of bad example from committing offences, can they become debased and demoralised as they are by a habit of committing them?

Some say that drunkenness is only a man sinning against himself, but at least as much so is suicide. Yet I believe there is no civilised country where attempts at suicide are not punished.

The Parliament is over. You, Mr. Editor, have fewer speeches to report, and more room in your columns. Can you not, during the vacation, ventilate such of these notions as you may approve, and get 'A. B.' to help you?

III.

POLICE SUPERVISION.

Thrs

TO MY BROTHER JUSTICES OF THE COUNTY OF GLOUCESTER.¹

LET me ask a share of your consideration for some conflicting principles which have not been very much discussed of late, though ten years ago they occupied much public attention, but which, I think, it is time should be again brought to notice and their relative values determined.

The question has been and is, first, whether when a prisoner has undergone his allotted sentence of imprisonment he should be considered as a debtor who has paid his debt and is entitled to begin a fresh score—as one who has fully *atoned* for all the wrong done, and is fit to be received by society on an absolute equality with those who have always lived honestly.

Or, secondly, whether it is not desirable, for the sake of the prisoner quite as much as for the sake of the public, that both the police and his employer should know the whole truth so as to avoid placing much temptation in the way of his—as yet—infirm honesty, pains being taken at the same time to find him work in places of not much trust, where his weakness is known and guarded against, until by long, steady conduct he has *regained the character* he had forfeited for a time.

Or, thirdly (as it is proper to have three courses), whether we should acknowledge that such a man's honesty is probably infirm—that he is not as desirable an employé as we could wish—but that we should charitably leave him to get a place as he can, perhaps with a forged character, at any rate without warning his master of the risk of loss he is running, or of the risk

¹ Reprinted from the *Gloucestershire Chronicle* of March 7, 1874.

of ruin to his servant by exposing him to temptations which his weakness is unable to withstand, and all because we are too charitable to tell the truth.

Now here are three principles and three courses of action. All have had highly respectable supporters; all have had public approval in their day. Let us consider how public opinion has changed from one course to another, and, what is not quite the same, but often comes to the same thing in the long run, what is right and true and best for mankind.

The first theory was earnestly maintained twenty years ago by some most amiable friends of mine of the old ultra-philanthropic school, who had great tenderness for all who suffered. They held that men only did wrong because they were not kindly treated, and that taking a burglar into your service as plate-butler would infallibly cure him of all evil propensities. But it was urged more strongly on the other side that this was not found to be the case, and the burglar was not cured; while the idea of atonement for wrong done was in no degree applicable. A man may (humanly speaking) atone for a wrong done by a full recompense to the person injured and by a long course of voluntary good conduct; but the idea of atonement by being shut up against his will in a cell at a great additional cost, instead of recompense to the society he has injured, is wholly inadmissible.

Of the second course I will say little here except that I adopted it very long ago as my own belief, and that I have long fought for it under the banners of such men as Walter Crofton and Matthew Davenport Hill, and in some cases in the Houses of Parliament even against the ministry of the day.

The third course, strange to say, had for a time its strong supporters. Many were the cases in which prisoners when convicted appealed to the mercy of the judge or magistrate, and assured him that they had had the misfortune of being in prison once or twice before, that they had always come out quite reformed and desirous of living honestly; but just as they had obtained places in most respectable situations of high trust those cruel policemen came and *told the truth*, and lost them the places they had obtained by a lie, and left them no choice

but to return to crime. It appeared in many of the arguments used at this period that nothing was considered more innocent than to make a false statement or use a false character for the sake of obtaining an employment of trust; nothing more cruel or wicked than to tell the truth if it deprived a man of what he had gained by falsehood.

Now let us see the course that public opinion has taken for twenty years or more; and if I refer too much to my own opinions and feelings, believe that it is only because I wish rather to speak of the things I have seen and known than those which I have only heard at second-hand.

In 1852, when we began our reformatory work, I was much thrown with men who, in London or elsewhere, were engaged in the somewhat irregular efforts of that day to give a chance of honesty to discharged prisoners. At that time, and for some years before, trade had been dull, employment was hard to procure even by the honest, while the public mind seemed to be possessed with the idea that all the shades of dishonesty were equal, and that if a man had ever been in prison he ought to be *driven away*; quite forgetful of the fact that we could not kill him, that he must exist somewhere, and that for every one whom they drove from one place, another would probably be driven to it from elsewhere. The only hope of reformatory managers in those days was to send our boys out as emigrants; and here began a difference of opinion between myself and most of my friends, they holding that it was a great advantage that they would begin the world afresh with an untarnished character, while I regretted that they would not have the wholesome discipline of *regaining a character*. Happily, however, before any of our reformatory boys were fit to send out, the Crimean war had carried off large numbers, employment was plentiful, and I had to carry out the principle I had always advocated of finding work for them in this country with masters who knew of their failings. For a time I had much difficulty, for the early reformatory laws did not give us the powers which we now possess of licensing them on trial; yet even then I never sent a boy from the reformatory without finding him a place of work where his character was known. This I considered a triumph in those days till it was thrown into the shade by the extra-

ordinary success with discharged prisoners in London, of which I shall speak presently.

For nearly twenty years we have rarely found even a difficulty in getting a suitable place for any boy we consider fit to leave us; but we rarely, if ever, wish to put them at first in places of trust or temptation. We have always held strongly that a boy ought to be considered to have forfeited his character by the act for which he was committed to us, not irretrievably, but for the time; and that this character can only be regained, not by his suffering an involuntary punishment, not by good behaviour while under restraint, not by our charitably forgiving, and begging the neighbours to forget or conceal *the truth*, but only by manfully and honestly acknowledging that the character is deservedly deteriorated and can only be restored by long voluntary good conduct.

In addition to this an order was sent us about 1860 to report every Christmas to the Home Office the present state of every boy whose sentence has expired within three years. As we frequently discharge them on licence two years before the expiration of the sentence, this sometimes compels us to keep a close watch on them (generally through the police) for five years after they leave us; and though some of my reformatory brethren were at first frightened at the measure, yet I think that all now allow that keeping our watch upon them for several years (for we rarely lose sight of one of them) has a far better effect than allowing them to keep their characters secret.

Take another case. When our colonies began to object to receive our convicts, or, which was the truer reason, when increased commerce had given facilities for convicts to escape and return home unless they were *kept in prison* at a far higher cost and with less safety than they would be kept at in England, the Government determined to try the system of a tripartite sentence; the first portion to be passed in separation, the second in associated labour, the third in apparently free labour but under the supervision of the police—i.e. that a man on leaving prison should not be free to recommence at once his evil courses, but should be watched for a time, and, if necessary, his liberty restricted. This good intention, however, was not carried out for many years. It was found *difficult* to procure at that time

places for all if their characters were fairly stated, and the authorities wished to escape the trouble and cost of keeping them for the full time in the convict prison; so they gave them in form a licence or ticket of leave, ordering them to report themselves to the police, telling them at the same time privately to do no such thing, but to keep their own secret and get employment where they could and how they could. X

Here we have the great typical experiment of the system so much extolled of letting a man find his own way back into society without any slur on his character, or rather let us say with the stain concealed. The whole press of the country bore witness for many years to the wretched failure of what was perversely called the ticket-of-leave system, but which consisted simply in ignoring the good provisions of the ticket of leave.

Meanwhile Captain (now Sir Walter) Crofton commenced in 1854 his grand system in Ireland. Beginning with the same grounds as our English system, he simply carried it out, and did not let the convicts go till places were found for them, and a watch was carefully kept upon them, and the employers of the convicts knew it. In 1861 I went round with Baron Holtzendorff and Col. Akroyd to talk with a large number of tradesmen of Dublin, some of a very high class, who employed some of the convicts, and they told us that though at first they had not much liked taking them, they now hoped never to be without some of them, as, though they did not trust them with money, yet, being under watch of the police, and feeling that they were on trial to *regain their character*, they were more to be relied on for steady work than the ordinary workmen.

I need not here expatiate on Crofton's system. It has been approved by, I believe, every civilised nation of the world, has been carried out by many, and is being gradually adopted by others. Within the last few months I have heard that a ticket of leave, with careful supervision, has been established with great success in Switzerland, and I have no doubt it will spread through the world.

In 1864 Mr. Ward Hunt introduced a clause (April 18) in Sir George Grey's Penal Servitude Amendment Bill—'That any holder of a licence who shall fail to report himself to the police every month shall be guilty of a misdemeanour, and his

licence shall be forfeited.' This amendment was carried against the strong opposition of the Government. On June 7 it was laid before the House of Lords, and an amendment was proposed to omit Mr. Hunt's clause; but on a division the amendment was negatived and the clause retained. On June 17 it was reconsidered by the House of Lords, the greatest ministerial strength was brought to bear, Mr. Hunt's clause was rejected, and the Bill was returned to the Commons without it. The Commons, however, refused to pass the Bill without the clause, and on July 14 the Lords accepted it and it became law. A journal of much authority remarked, 'A more decided innovation than that introduced into our police system was never carried by a majority of Conservative noblemen. Hitherto the detection of crime and the arrest of offenders have been the only duties of a policeman. Henceforth the prevention of crime by precautionary measures will become part of his office.' It was true: the Conservative Peers and Commons who carried this measure made, as they often do, an innovation of enormous value.

X The consequence was striking. In 1862 and 1863 you could hardly find a paper which did not relate two or three 'atrocities of ticket-of-leave men' in every week. In 1865 and since then you would hardly find five such cases in twelve months. In our own county, where great pains were taken from the first to carry out the supervision well, the licensees certainly were not hindered from finding work, for the quarterly reports showed that nearly all were in constant work, yet, as nearly all returned by choice to the neighbourhood where they had formerly lived, it is nearly impossible that the employers could have been ignorant of their character. They have certainly not all turned out honest, but those who were inclined to be so have not been prevented by the supervision (on the contrary, they have been much aided by it), while those who chose to relapse have been much sooner caught.

Let me state yet another case where the characters of discharged prisoners have been made known instead of being concealed. In March 1864, at the request of the Reformatory and Refuge Union, Mr. Murray Browne commenced the Metropolitan Discharged Prisoners' Relief Committee, with the honest

determination of making known to the employer the character of every man for whom he found a place. It was anticipated that he would get employment for but few, and he was prepared to be contented with small success at first if he could gain that small portion honestly. Yet what was the result? During the eight years that he managed it, 4,412 prisoners were passed through his hands, and not one of these did he throw back on society without finding him a place where he could earn an honest living if he pleased, with his character and his weakness known—not, indeed, a place of trust and responsibility for which he would be unfit, but a place where he might *regain a character*, and where we may fairly say that a large proportion did so, as of nearly 3,000 men who were assisted on their discharge from Coldbath Fields Prison, only about 5 per cent. were recommitted at all, and of these many were so for only slight offences. From the time this system commenced, although out of the 11,000 or 12,000 annually discharged from Coldbath Fields Prison only about 400 have sought the aid of the society, we have ceased to hear the formerly constant complaints of men being forced to return to crime in consequence of their not being able to get honest work.

I need hardly refer to the change in public opinion (led on by the success of the before-mentioned measures) which has sanctioned the present system of police supervision of habitual criminals. Though very imperfectly carried out as yet throughout England, it has been allowed, in all places where pains have been taken with it, to be a great success. Yet I may mention one point which is not so generally known. As I before said, in 1864 Mr. Ward Hunt carried a clause ordering all ticket of leave men to report themselves monthly. In the Habitual Criminals Act of 1869 a clause was introduced to repeal this order, and the repeal did much harm. When, in 1871, the Prevention of Crime Bill was brought in, application was made to the Home Office to insert a clause restoring the monthly report. The reply was that it could not be done, because the public feeling, and especially the opinion of the Discharged Prisoners' Aid Societies, was strongly against it. It happened that Mr. Murray Browne had just brought together a meeting of the managers of these societies of all England, and this gave

us facilities for getting full opinions, and, if I remember right, about 95 per cent. of those who were consulted were strongly in favour of the monthly report—*i.e.* of keeping a watch on men returning to society after the punishment of their crimes. The clause was then inserted and passed, and is working well.

Now I would ask for your consideration whether, if these facts be fairly stated—as I believe them to be—and if no other facts can be shown on the other side—and I am aware of none such—we are not justified in concluding that it is not ruinous to discharged prisoners, but, on the other hand, better for them in the long run, as well as safer for the public, that their characters should be known and that they should be taken at their true and not a fictitious value? It appears that the public mind has come round very much to this opinion. But there is another view yet to be taken into account.

Which is the more honest and true course and the more likely to give safety to the public? If we find a shilling of doubtful appearance in our purse, is it more honest to shuffle it with some others and try to pass it to a stranger, or to take it to a bank and ask if it be good or not? If we have a horse of dangerous vice, is it quite honest to sell him without warning the buyer of his danger? If we have cause to suspect that an ox is likely to sicken with the rinderpest, have we a right to sell him to a drover to take to a distant market? If we know that a man's honesty is, to say the least, somewhat infirm, have we a right to 'leave him to get work as he can,' probably by a direct lie, at any rate in ignorance of his weakness?

But I shall be told that charity requires us to be kind and forgiving to those who have erred, and, above all, to do nothing to hinder their getting an honest livelihood. Now *true* charity is a quality I greatly honour; but when charity consists in a *suppressio veri* I greatly doubt its truth or its being beneficial in the long run. We have seen that in the cases of reformatory boys, of ticket-of-leave men in England and Ireland, of discharged prisoners in London and elsewhere, and of men under police supervision, they are not prevented from gaining an honest living by the fact of their characters being known. They may not find places quite so easily; they will not often gain places of trust; but they can, and do, find places, and

they are saved from a terrible and not very unfrequent danger.

If a man has got a place without his antecedents being known, and by good conduct has gained the esteem of his master and is highly trusted, and then is recognised by some rascal who has seen him in the dock and threatens to peach, and demands hush-money, the poor wretch is entirely in the rascal's hands, and may be driven, first, to give up every shilling he has saved, and after that to plundering his master to any extent—to prevent—what? Why, to prevent *the truth* from being known. Had he never concealed or been allowed to conceal the truth, he would have risen more slowly, but he would have been safe.

But another objection is made to letting the truth be known. It is said that the judge, or chairman, or justice has passed a sentence of imprisonment on the prisoner which is exactly adequate to the offence, and therefore the additional labour and care of honestly *regaining a character* known to be damaged would be so much in excess of the proper degree. Surely this objection cannot be allowed. Can we feel sure that our judges and justices can weigh accurately the heinousness of the crime and the pain of imprisonment so as to adapt exactly the degree of the one to the other, and yet refuse them credit for being able to take into account the additional trouble of regaining a character and shortening the imprisonment in proportion?

But if so, how great will be our gain in every way! We have long accepted imprisonment as our only punishment for crime. Yet we cannot deny that it is nearly as unsatisfactory a remedy as we can imagine—that it is very costly to the honest (nearly 600,000*l.* a year for gaols, and above 100,000*l.* for convicts, besides the cost, which cannot be estimated, of the maintenance of their families by the unions); that it is unequal in its degree of pain, one man feeling three or four times as much pain as another will in the same sentence; that it has little reformatory effect, and that its deterrent effect, the only one it has, is very uncertain. On the other hand, the task of regaining a character costs not a *sou* to the honest; it stimulates, almost compels, a man into a high and ennobling work; it fixes in his mind, and those of others, the *value of a character* by the

difficulty of *regaining it*, and it renders far more safe those who have more or less regained this precious character. Can we doubt that the more of the costless, safe, and reformatory punishment we can substitute for our present expensive and useless system, the better?

It has long been the general rule of and orders to the police that they should as far as possible 'abstain from all interference' with discharged prisoners or convicts. I do not think it has ever been clearly stated whether, if a policeman knew that a discharged swindler were employed as cashier at a bank, it would be his duty to inform the manager or not. Forgive my saying that I think this requires to be rectified, not by the police themselves, but by the recommendation of the justices. There still exist among us many people, though their numbers are greatly diminished, who would at once raise the cry of 'Cruel police!' and any cry, however unjust and absurd, against so extremely valuable a body is to be avoided. If it be done at all, it should be by an order of Quarter Sessions—'That the superintendents of police should use what means they fairly can to obtain places of honest work for discharged convicts or prisoners, honestly acquainting the employers with the circumstances of the case; but that if it shall come to their knowledge that any discharged convict or prisoner is employed in any situation where it is probable that the employer is in ignorance of the truth, they shall (if you please, after consultation with the chief constable), with due privacy and delicacy, acquaint such employer with the facts; and that copies of this order should be read to or given to all prisoners discharged from gaol and all convicts licensed to the county.'

Were this done I have little doubt that the justice and utility of the measure would be soon recognised; that discharged convicts and prisoners would find work quite as readily as heretofore, though not in places of trust; and that the task of *regaining a character* would be an excellent substitute for some portion of the imprisonment.

POLICE SUPERVISION.¹

At the last Quarter Sessions my friend Captain de Winton accused me of not going far enough in the matter of police supervision. I sent him the following letter, which I wrote to a friend in September 1874, but at that time I thought it 'too wild' for publication. Opinions change, however, and I have lately found several men of weight who approve it, and I therefore offer it to your notice.

'Let me explain to you the principles of the rather startling proposition of which I told you. I believe that, in our friend Mr. Curtler's words, England will not much longer endure that imprisonment, should be used as the only or chief means of preventing crime. I have for forty years as a visiting justice done my best to carry out the prison system, and have done it willingly, because, bad as I have long thought it, I could see no means of improving it. Now that I think I see a means of improvement, I may call attention to its evils as being: 1st, a very heavy cost to the State (in 1872 the daily average number of prisoners in England and Wales was 17,505, costing the public 622,798*l.*, besides the loss to the country of the earnings of the men); 2ndly, though it has a considerable deterrent effect, I think it might be made to deter more with the infliction of less pain; 3rdly, its reformatory power is small, and the prisoner is rather unfitted than fitted for a return to the world by a life of entire seclusion and entire dependence, having his meals brought to him without any work of his own, and having no stimulus to exert himself beyond the fear of punishment, till he is returned to society an entirely free man, without any supervision to help him to do right or to prevent his doing wrong.

'It appears to me that we now have the means of greatly improving these three failings. Our means are as yet far from being in perfect order, but we have all the machinery we want; no new money, no new office, and scarcely any new Act of Parliament, are needed; we only want the parts of the machine that we have got put in gear and to be set to work well together.

¹ Letter to the editor of the *Gloucestershire Chronicle*, April 17, 1876.

'The machine we have is police supervision. A discharged prisoner is ordered to report himself every month to the police, and if he leaves the district without leave he is liable to twelve months' imprisonment; but he may remove to any place he pleases with the leave of the police, who give notice to those of the district where he intends to settle, who take charge of him henceforth. There is also a register office in London where a list is kept of all men convicted of crime, with their photographs, for the purpose of identifying them. This appears to me quite sufficient machinery for our purpose if it is made the most of.

'But, first, there is no necessary connection between the police of different counties, or between them and the office, and so far as I can ascertain, I believe that the justices of each county make but little inquiry as to how the work is performed, and leave it almost entirely in the hands of the police.

'From much conversation I had with foreigners during the Prison Congress I am inclined to believe the police of this country to be superior on the whole, and especially for such a service as this, to that of any other country. Appointed not by the Government, but by a set of country gentlemen of all shades of political opinion, they cannot be what other countries think them, "Government spies." Officered not by promoted policemen, but by men of birth and education and gentlemanlike feeling, they ought to be, and generally are, not the simple antagonist of a criminal, but the preventers of future crime (as well as being employed, as General Cartright always advocated, in as many other works for the benefit of the State as possible). But highly as I think of them, they are but men, and will do any work all the better if the public know how the work is done, and if they get the credit they deserve if it is well done. The work of supervision is a delicate one, requiring thought and care. If our chief constables, such as they are, will talk to their superintendents and impress upon them their own high gentlemanlike feeling, and select for that office men of intelligence and good feeling, the work of supervision may be carried on, not only without injury, but with positive benefit to the supervisee; but to encourage them in such a work they ought to have the knowledge and approval and co-operation

of the justices, and through them of the public; and it will be very desirable that the police should have the means of comparing the work of one county with that of another.

‘At present, if a supervisee moves from one county to another, the first county loses sight of him altogether, and there is no one to keep account of him during his whole term of supervision. The London office registers his photograph, his antecedents, and his sentence, but knows nothing of what becomes of him during his term of supervision.

‘The remedies I should propose for these shortcomings would be easy and simple and inexpensive. Let the justices appoint a small committee to look over the list of the supervisees at each sessions with the chief constable, and to make known the success with which he works, and to make returns of it to the statistical branch of the Home Office. Each chief constable would then feel that he is getting the credit he deserves, and the body of the police would share in the credit and feel an interest in the work, and the Home Office would be kept aware of the way in which the work was done in every part of the kingdom.

‘Secondly: When a supervisee removes to another county the police should inform the London Office, who would transfer him in their books from one county to the other, and thus keep a record during the term of his supervision; or if he abscond, the office would advertise his description in the “Police Gazette,” offering some moderate reward for his apprehension. This of course would not always find him. If he goes to some country place and gets a job of draining and goes on quietly, he will most likely not be caught, and there is little reason that he should be so; but the police generally have a pretty good knowledge of the bad characters in their neighbourhood, and if a stranger should appear keeping company with bad characters, or in any way exciting their suspicion, they might look through a file of the “Gazette” and write to the Central Office for the photographs of several absconders who suited the description, and very probably apprehend him. This would in no degree centralise the management of the police or supersede the authority of the justices; nor would it cause any appreciable amount of extra work. I find by the constabulary report that

in Manchester 102 convicts were on licence during 1873, and sixteen absconded. The writing of sixteen letters amongst the force of 756 would not be a heavy addition.

‘I cannot but think, however, that it would be desirable to remove the office from the Metropolitan Police to the Home Office. There can hardly fail to be a certain degree of unwise perhaps, but not unnatural, jealousy of one police force putting itself under another, even though that other be so important as the Metropolitan.

‘I believe that if these slight and costless alterations were made the police supervision would very shortly become an important power, and when time is given for it to get well into work we should be able to take another step.

‘I believe that with the introduction of a short and simple Act of Parliament power might be given to justices in a case where they would now ordinarily give twelve months’ imprisonment, and where, from their knowledge of the prisoner’s antecedents, they might deem it a fit case to pass a sentence of three years’ *liability to imprisonment*; explaining at the same time to him and the public that he probably would be actually in prison for only one month and pass the rest of the time under supervision unless he in any way misbehaved—that during this time he would have to find work with his character known, and therefore probably not at high wages; that he must report himself to the police and answer their questions every month, or, if you please, oftener; that he must pay a small sum, say a shilling a week, towards first repaying all that he has stolen, and secondly repaying part at least of the expense of his prosecution; that he must feel the inconvenience of the loss of his character for the time, but that he must be encouraged to hope to *regain that character* by the only means by which it can be regained, namely, by a long course of steady, honest life.

‘I believe that were this system well carried out it would reduce our gaol population and the cost of it very greatly—that it would be more deterrent to those likely to fall into crime to see the criminal working amongst them for three years and repaying what he has cost the public, than to have him removed out of their sight to a gaol of which they know nothing. I believe that earning his own living under a strict but kind supervision

would be more reformatory than the prison ; and I believe that a very long supervision would be a greater safeguard to the public than the far shorter imprisonment.

‘I must add that I hope for much from the effect that is already being gradually produced—1st, by a careful study of the prisoners’ *antecedents*, and by the system of cumulative sentences adopted in this county in 1871, and gradually becoming more fully carried out elsewhere ; and 2ndly, from that which I hope may be produced by a watch on the prisoners’ *consequents*. I believe that the first will prevent the existence of the race of skilled and trained and hardened thieves, who are the most dangerous while at liberty, and who require the most stringent and costly management while in gaol ; while the second will assist them in an honest course when they return to the world, but seriously hamper them if they resume an evil course.

‘In any degree that we can approach these two objects we shall in that degree have attained our wishes as to a system of dealing with crime.’

POLICE SUPERVISION.¹

LET me ask for a small portion of your space to make an announcement which will be worth the attention of those of your readers who take an interest in the lessening of crime—whether that interest be for the sake of lessening the chance of their own property being stolen, or of reducing the heavy cost of imprisonment thrown on the taxes of the country ; or whether it be for the sake of lessening to our poorer neighbours that temptation from which we ourselves pray to be delivered ; in either case the information I have lately received is valuable and unexpected.

There had long existed among the public a sad pseudo-philanthropic feeling, kind in intention but most unwisely carried out, that no difficulty should be thrown in the way of a repentant thief returning to honest courses ; and therefore if any one, especially a policeman, found that A. B., a skilled burglar, had on his discharge from penal servitude obtained by a false

¹ Letter to the editor of the *Gloucestershire Chronicle*, June 7, 1880.

character a situation as plate-butler, or C. D., on his discharge from a sentence for forgery, was found in a lucrative post as cashier of a bank, it was the duty of whosoever discovered the fraud (policemen especially) to keep the secret and run the chance of the employer being robbed rather than that poor A. B. or C. D. should lose a respectable and lucrative office which he had obtained by fraud, or at any rate by concealment of the truth. This unhappy false philanthropy had been in a great measure the cause of the failure of the so-called ticket-of-leave system.

The very essence of the original measure was that a man should be let out from prison a year or more before the end of his sentence in order that just at the time of his greatest trial or difficulty he should be kept under the friendly watch of the police, to be aided in trouble or detected if he relapsed. Instead of this, however, the very contrary was practised. The prisoner was indeed discharged earlier, but was not ordered to report himself to the police, and the latter were desired not to watch or interfere with him. The utter failure of this system will not be forgotten by those who remember those days. In 1864, however, a Bill was brought in to amend the penal servitude system, and Mr. Ward Hunt introduced and carried, against the strongest opposition of the Ministers, a clause ordering ticket-of-leave men to report themselves every month to the police. From the time that a due supervision was thus established little has been heard of the 'atrocities' of ticket-of-leave men.

Still, however, there remained in the minds of many so strong a desire that a discharged prisoner should be not only enabled to earn an honest living in a place of less trust and lower wages, but that he should have every facility for obtaining 'a lucrative and honourable position' by the help of a false pretence, that when in 1869 the Habitual Criminals Bill was brought in, with the intention of placing under the supervision of the police, not only convicts on licence, but all who were convicted for the second time of crime, a clause was actually inserted repealing the order for the monthly report.

This brought about a state of things as opposite to the wishes of everybody as well could be. The police—still under the general order *not to tell the truth* of any discharged prisoner—

were expected to keep a watch on them, and had to go to look after them instead of the supervisees coming to report themselves; and this, though done with all possible care, drew far more attention to their charges than was desired by any. In many counties the police, I believe, gave the matter up, and did not attempt to carry out the Act, and the Home Office never inquired whether it was carried out or not. In this county, however, I can state that it was efficiently worked, even in those two years, though with much trouble.

The next year but one, however—in 1871—Mr. Bruce, the present Lord Aberdare, brought in the Prevention of Crime Bill, under which we now act, which removed the evils and supplied most of the deficiencies of the Act of 1869. From that time the working of the system has slowly but steadily progressed throughout the country. It might, indeed, have been wished that the Home Office had inquired of each county how the system was worked, and with what success, and required returns of the numbers reporting, and of those relapsed, absconded, or the like, as they required returns of the gaols. It might have been desired that the justices of more counties had shown some interest in the work, had appointed committees to inquire how far the supervision was really efficient, and had been able to give to their police the encouragement and the credit which most of them well deserved but did not receive.

Still, from the passing of the Act of 1871 the system of supervision has slowly but steadily improved; but what was in truth a far more valuable improvement has been that the truly philanthropic and honest principle with regard to discharged prisoners has been slowly but steadily gaining ground, namely—

That, so far as they can, the police should assist all discharged prisoners in finding work, with wages sufficient to support them, but that they should clearly understand that they have (not by their imprisonment, but by the crime which led to it) lost their good characters for the time, and must not at first expect to be employed in places of trust or at high wages, and that it would be dishonest in them to accept any such places without informing their employers of the truth. They must remember and feel the extreme value of a good character, which cannot be received as a gift, or purchased with money, but can

only be regained by some years of steady good conduct in the sight of men ; but they must know that it may be so regained by honesty and truth. When this principle shall be generally allowed—and I cannot but believe that it will be so ere long—we shall have nearly reached a sound system.

It is, however, still urged by many that if their real antecedents were known no work could be found for discharged prisoners. In a small county, indeed, it is said the police might possibly find work for many of them, and keep some degree of supervision ; but in a large county neither effective supervision, nor a police acting as an aid instead of an enemy to discharged prisoners, could be carried out ; while in London of course the idea would be absurd.

This brings me at length to the announcement I promised you in beginning.

It appears that the London police have been prevented by a legal technicality from giving the system of supervision a trial ; but during the last session of Parliament Mr. Howard Vincent, the Chief of the Criminal Investigation Department, obtained a short Act, simply explaining the intention of that of 1871. The difficulty thus being removed, Mr. Vincent has proceeded to action with such energy and success that out of about 1,000 persons whose names are now on the register for supervision there are usually only about thirty on whom he cannot lay his hands. These, indeed, are found from time to time in London, Nottingham, or elsewhere, and according to the merits and demerits of the case imprisoned for twelve months or one month, or ‘ cautioned,’ or ‘ strictly cautioned ’—but others again evade for a time.

For myself, having anxiously watched this system in my own county and some others for several years, I can hardly express my thankfulness for this so rapid success. I have never doubted that it would be found to succeed throughout the counties, and eventually even in London, but I scarcely hoped to live to see the latter. Now, in a few months Mr. Vincent has raised the system from an experiment to an accomplished fact ; and if London and Gloucestershire can both succeed, there can be no town or county in England—and few districts in Europe—which may not ere long share its advantages.

IV.

ADULT REFORMATORIES.

ADULT REFORMATORIES.¹

I HAVE been requested to bring before you the subject of Adult Reformatories. I have written and talked so much on the matter of late that, if you permit me, I will not weary you with a long paper repeating all the arguments, but will state the subject briefly, and trust to the discussion which may follow for calling forth any argument which may be needed.

I imagine that it will be generally allowed that the time for simple retributive justice—that is, for considering that a man is to expiate his offence by suffering a proportionate amount of punishment—is past, with the days of mammoths. I think it will be allowed that our object now is not to spite a man for what he has done, but to prevent him and others from doing the like again. This includes the two principles—deterrence or prevention, and reformation.

I place first the deterrence or prevention, because I consider it as applying to by far the largest number, and therefore to be of more importance. Reformation appeals to thousands who have been detected in crime; prevention, to the millions who have not. I am no opponent of the deterrent system. I believe that if it be shown that a punishment inflicted on a criminal will, by its severity, prevent others from crime, we are justified to any degree in which the present evil of the severity is balanced by the benefit of prevention.

But we must remember that punishing a man by no means implies doing him or wishing him harm; and a punishment may be highly deterrent, and yet in the end beneficial. Our

¹ Paper read at the Social Science Conference at Liverpool, 1858.

object should be, then, the greatest possible deterrence with the least ultimate harm to the offender, or, if we can manage it, even the greatest good we can give to the offender without the loss of the deterrence.

To find, then, the best means of punishing, we must consider not what will do most harm, nor even what would be most distasteful to ourselves, but what will be most distasteful for the present, and yet least prejudicial to the future, of the criminal. I confess I am inclined to believe in this, as in most other cases, that the simpler and the more natural you can render your punishments, the better and the more efficacious they will be.

Now much has been said of the efficacy of hanging, transportation, treadmills, and separate prisons. I am much inclined to believe that few punishments are more deterrent than the feeling (if they are made to feel it and not allowed to shirk it) that the public is against them—that they are cut off for a time from the innocent—that they are known for what they are—and that they must begin and lay the foundations of a new character, not in the ignorance, but in the knowledge of the world. I believe that if you allow a man, after he has had his quantum of artificial punishment—viz., gaol—to begin the world anew with an apparently unblemished character, to show a bold front to the world while he bears within him the knowledge that his assumed innocence is false, and that he is liable to detection at any moment, you sanction his evading a just and natural and most deterring punishment, while you give him one more artificial, more deleterious, far more costly, and yet less deterring to others.

But hitherto we have spoken only of deterrence. We must not forget that we have another duty, namely, that great principle of Christianity, the giving to every man within our reach not only an opportunity but every aid we can afford to repentance. This we now style the reformatory portion of our work. Thank God that we now meet with few who do not look with hope and belief to the possible reformation of the guilty. The question is only what steps can be taken to aid it.

Many with great kindness of feeling advise that the moment a man has *expiated his offence in prison* all his evil deeds should be utterly forgotten or unknown, and that he should have a

chance to begin a new career in a new country with an untarnished reputation—in other words, that you should sanction and aid his fraud in saying that he has a good character when he has not, and leave him in possession of the fruits, with the hope that the truth may not be found out. I fear that, much as I respect their good intentions, I cannot approve their arguments. I fear that a system which depends on the hope that the truth may not be found out must have some rotten expediency at its core: a truly sound system would need no such hope. Therefore, on reformatory, still more than on deterrent grounds, I would advocate that a repentant criminal should build his future character more slowly, but on a secure foundation, so that in time when he has proved his reformation to be lasting, should some former acquaintance meet him and remind him of the past, instead of cringing guiltily to him and saying, ‘Pray don’t tell the truth or I am ruined,’ he may say, ‘I know it. I have sinned, I have expiated my offences, not by months of compulsory imprisonment, but by years of steady honesty, and it is not in the power of yourself or any other to ruin me by revealing the truth I have never concealed.’ Surely, if the difficult task of gaining a character openly be—as I doubt not—more deterrent than prison, the honesty of the character, the freedom from deceit, and the security when gained, would be more reformatory.

But, if desirable, is such a system—firstly, just; secondly, possible? The two objections are made—first, that the punishment in prison is sufficient, and that that of a known bad character afterwards would be excessive. This argument seems to me very weak—first, because it is partial, as many criminals do and must return to their own homes, and slowly and painfully regain a character, and those who refuse to do so are the least worthy portion; and secondly, because it would be easy, cheap, and every way desirable, if the total amount of the punishment be deemed excessive, to lessen it by shortening to any requisite amount not the simple and natural penalty of the forfeiture for a time of a good name, but the artificial and costly, though by no means unnecessary, penalty of imprisonment.

The second argument against it is its impossibility. We are told the public won’t employ them unless it is blindfolded, and the men themselves are so proud and haughty that they cannot bear

—what? Not their own knowledge of the fact that they have sinned, but that others should know the truth of them.

For the first, I confess to a great faith in the good sense of the English public, if you will show them a truth and not try to hoodwink them; for the second, I think that if men are not honest enough to face the truth, and are not humble enough to expiate their offences in the only way they can do it, namely, by a long course of voluntary honesty, their reformation is somewhat shaky.

But can we expect the public to take criminals at once from a prison, when it is on all hands allowed that a good prison character is no proof of honesty, to be trusted at large? I think not. Unless we can procure a stage which shall gradually give more liberty, more opportunity for them to show their real character, whether good or bad, we cannot give the public good grounds for believing that they are worthy to be trusted even in the slight degree and under the watch and surveillance with which we propose they should be again received; and for this purpose, and to give all a hope and an opportunity that if they choose to strive for it they may rebuild an honest character on a secure foundation, it is that we need adult reformatories. I must, however, here guard myself, if I can, from misconception. I am no believer in reformatories in the light in which some consider them, namely, as a sort of moral mill, into which whoever is put is, by a specified number of turns of the wheel, ground out an honest man. I only consider them as places where a man, if he wish to do well, may have opportunity and aid; where, at any rate, his character is likely to become better known than in close confinement, and where he may become by degrees more fitted to withstand the temptations which a sudden change from perfect seclusion and almost irresponsibility to perfect freedom is likely to bring, and, still more, by giving him a more trustworthy character, to be more likely to find him employment; and by continuing a watch upon him, and a friendly communication with him after he has left it, to aid, strengthen, and encourage him in his good course.

But I still meet with many who firmly believe in the possibility of managing a boys' reformatory, but who say, with an air of great authority, that one for adults would be impossible.

I beg to answer that, if I can show that out of 100 attempts a single one succeeds, I disprove the impossibility. But in this case I can point to four cases in which adult reformatories *have succeeded*, and (which is rather an unusual proof of possibility) that I have never heard of any one case in which an adult reformatory has been tried and has not succeeded beyond all reasonable hopes of its founders. I believe that this meeting contains a large number of men who are more likely than most in England to know whether such failures have occurred ; and I should like to know, publicly, how many instances they have known of an adult reformatory having been attempted and failed.

If it be found on close examination that all, or even most of them, succeed in their main object, surely we may venture to ask the attention of Government to the subject.

But the attention of Government usually implies two things, which Government are rightly very cautious in granting, and which I confess I for one have a great objection to asking, if we can do without them—namely, new laws and fresh money. I hold that every addition to our laws is in itself an evil, though it may be more than balanced by the good it may create ; and doubtless every fresh demand on the public purse, even if it give good hope of an eventual saving, is a certain and present evil.

How peculiarly fortunate then is our present position, that our request to Government neither requires an Act of Parliament nor one shilling more money ; nay, that in each case in which it is applied it will cost actually less than the present system !

Many of those present probably well know the commencement of Government connection with our reformatory schools. It was under an Act of Vict. 1 and 2, chap. 82, sect. 11, which declared that ‘after the passing of this Act, in case any young offender sentenced to imprisonment shall be pardoned by her Majesty upon such condition aforesaid (namely, that of placing himself or herself under the care of some charitable institution approved by the Secretary of State, and abiding by the rules thereof), and shall accept such conditional pardon, and shall afterwards abscond or refuse to abide by the rules, it may be lawful for any justice, by warrant, to commit the party so

offending to any gaol for any period not exceeding three months for the first, or six months for a subsequent offence.'

Now, the term 'young offender' herein used is nowhere limited to any particular age. The usual practice of the Home Office, of late years, has been to limit it to under sixteen; but I am greatly misinformed if, both at Parkhurst and at Redhill, conditional pardons under this Act have not been frequently granted to those above sixteen; while, in a list of similar pardons granted to another institution, I find, out of twelve pardons in three years, 1853-4 and 6, that one was for a girl of nineteen, one for one of eighteen, one for seventeen, and two for sixteen. I have taken the opinion of several counsel on the subject (particularly, I may mention, one whose soundness and accuracy, I believe, are as little doubted as those of any man—I mean Mr. Rolt, the well-known Chancery barrister), and all have assured me, without hesitation (after looking into the Act carefully to see that no limit was elsewhere mentioned), that the term 'young offender' was fairly capable of application to all under twenty-one. If this be so, it requires, as I said, no new law until at least we have proved, by our action on those under twenty-one, that we may be trusted with those who are older.

If, indeed, the authorities of the Home Office still continue to hold that no person past sixteen is young, it may be necessary to bring in a very short Bill to declare that the Act applies to all under twenty-one.

The rough draft of such a Bill, corrected by Mr. Rolt, is at hand, for the consideration of any here who might be disposed to aid its progress, if necessary. The proposed Bill would certainly give some few advantages not presented by Vict. 1 and 2; but so great is my own dislike to unnecessary legislation, that I should prefer proceeding under an old and long-tried Act until we can show good cause for an extension to an age to which the term 'young' will not apply so unmistakably as to a youth of twenty.

The proposed Act—if it be necessary to press it—is as carefully as possible identical with that of Vict. 1 and 2, with the exception of declaring that a person under twenty-one is young, and with a provision in the last section that an offender absconding may be recommitted to prison for the remainder of his sen-

tence, with the addition of any period not exceeding that which he has spent under conditional pardon in the reformatory. The last is added in order that, if a man exchanges his prison for the less irksome reformatory for a time, and then behaves ill, he may not thereby evade his original amount of punishment.

‘It certainly appears to me that no new law, however, is requisite, and the consent of the authorities of the Home Office is the only thing we require to enable us immediately to put our present and many new institutions under the Act. But, you will say, nothing in the 1st and 2nd of Victoria alludes to the important article of money. It is true not a word was said of it; but inasmuch as Parliament did vote in 1854 a sum of money to support boys sent to institutions under this Act, as such money was received by me for many conditionally pardoned before the 17th and 18th of Victoria came into operation, and as until very lately the whole of the boys sent to the large establishment at Redhill have been so supported, I think I am justified in supposing that they have all requisite power.

But I said that no fresh funds would be required; and truly so if, as I believe, the public care very little whether they pay through one office or another, as long as the sum be lessened. Now, on the total of England and Wales, the average cost per prisoner per annum amounts to 23*l.* 10*s.* 3*d.* If a much smaller sum were allowed to the reformatory, I believe that the latter would be well content, as men do not eat more, and can work much more, than boys.

If, then, I have succeeded in showing—first, that adult reformatories are desirable; secondly, that they are possible of management; and thirdly, that they may be brought under both the aid and the supervision of Government, without any new law, new principle, or new money—nay, that their course is simply marked out by the quiet steady progress hitherto made by the boys’ reformatories; while the rest, being only in lieu of, let us say, the latter half of a far more expensive imprisonment, will, from its very commencement, be an actual saving to the country—I think I have shown sufficient ground for asking your endeavours to obtain the simple consent of the Secretary of State for its adoption.

SENTENCES FOR REFORMATION AND DETERRENCE.¹

AFTER public attention has been for so many years drawn to the treatment of crime, I must allow that it savours rather strongly of presumption in a small country squire to suggest to such a meeting as this the possibility that our first principles of action are radically wrong. Were I particularly careful of my credit I should hesitate to do so, but I care more for truth than credit, and therefore say, 'Strike, but hear;' condemn my presumption, but consider whether my views be not true. Let me ask, what is the object of punishment? Whatever might have been the reply some years ago, I need not now fear to be answered, 'To vindicate the injured majesty of the law,' 'to compel a criminal to expiate his offences by undergoing a proportionate quantum of pain,' or 'to carry out the *lex talionis*, satisfying A by hurting B just as much as B has hurt A.' None will in these days confess to such motives; but then what is our object, or why do we punish? Surely our chief objects in dealing with crime ought to be reformation and deterrence—so treating a criminal that he shall not offend again, and making such an impression on the minds of others as shall check them from following his bad example. Some most earnest philanthropists, indeed, doubt the justice of the latter principle, and would deal with each offender on his own merits alone, with a view solely to his reformation. I cannot agree with them. So long as we are taught to pray, 'Lead us not into temptation,' it must be our duty to endeavour to lessen temptation to others. But I fully allow that punishment is only justifiable so far as it is calculated to prevent crime, and that that punishment is to be preferred which combines the greatest deterrence with the least pain. Is, then, our present system the best that can be framed to deter or reform? Let us consider the first of these objects. To know how to deter a man from crime, it is necessary that we should know at least somewhat of what his tastes or feelings, or at least those of his class, are likely to be. Were I told that if I did wrong I should never be allowed to hunt again, I confess the effect would be strongly deterrent, while a timid gentleman,

¹ Read at the meeting of the National Association for Promoting Social Science, Dublin, August 1861.

unused to horses, might consider a similar assurance to be a positive inducement. Also, to have full effect in deterring, it is necessary that the person to be deterred should be able to guess pretty nearly what the consequence of his crime is likely to be. Now how do we usually regulate our sentences with a view to deter others? A judge, chairman, or magistrate considers the case as given in the evidence, and with the nicety of a superior mind he balances the points which indicate the turpitude of the offence. On the one hand, the thief had for a long time withstood great temptation, property was unnecessarily left in his way, he and his family were poor. On the other hand, he stole from a master who had been kind to him, &c. Weighing all these points, the judge decides on an amount of punishment exactly proportioned to the degree of criminality. Were the *lex talionis* our sole object, nothing could be better. But is it calculated to deter? Who are the class whom we seek to deter from crime? Surely the poorer, the weak, the uneducated; and it is on their opinions alone that it is important to make our impression. We deem it essential that those who have the power of passing sentences should be selected from the most refined or deep-thinking men. Yet in the exact degree in which the decisions of such men differ from the opinions of the poor and uneducated are those decisions unfitted to deter the very class on whom it is our object to act. A carefully considered sentence may indeed excite the approbation of the bar, the bench of magistrates, or even the intelligent middle classes who see the newspaper reports of the trial. But these are not the people on whom we require to make an impression. More than three-quarters of our criminal class are the weak in mind and thoughtless, and so far only as *they* can appreciate the reasons of a sentence will they be deterred by them. They practically can seldom guess at the deeply considered arguments which govern the judge. They look on the severity of the sentence as a matter of chance, and they always hope to have the good luck of a light one. Consequently the impression made on that class whom we seek to deter is less than the pain inflicted on the offenders—the exact contrary to our object. But if our system be not perfect in its deterrent effect, is it better calculated to reform? A prisoner is brought before a judge who knows nothing of his past history,

nothing of his physical or mental constitution, and is sentenced to a length of imprisonment exactly calculated to balance the turpitude of the offence, not the probable chances of his reformation. He is then placed in a cell, carefully ventilated and kept at a certain temperature. Clean and airy as it is, the solitude is most irksome (to many, but by no means to all), and would probably affect the spirits of some so as to injure their health. Therefore an expensive diet must be given to *all* (not to some) to keep up the animal vigour which the solitude must have lowered. Little hard work can be done in a prison, therefore the hands and muscles become weak. The mind, too, becomes considerably softened and enervated. This latter is by no means a bad thing at the beginning of the punishment. It allows the exhortations of the chaplain to make their full impression, and often induces or helps a real sorrow, which, if well guided, may lead to a lasting repentance. But if it be a good thing at the beginning of punishment, it is the worst possible preparation for commencing the hard battle of the external world. Having, then, endured a certain amount of softening and weakening, on some certain day—fine, wet, or frosty, as may happen—he is led from his cell; his warm clothes are taken off, his old ones are put on; he is charged to go to work immediately, and live honestly henceforth; and he finds himself weak and rather giddy, in July clothes and December's frost, in a strange town with 1s. in his pocket. He perhaps has learned a very small amount of tailoring, or shoemaking, or mat-making, or oakum-picking in gaol, but where can he find a master who will employ him at these trades? If he has ever learned hard agricultural work, he is too weak for it now. Still it is assumed that the imprisonment must have done him good somehow, though we must not ask how. If the cells have been kept clean, or the rules strictly obeyed, it would be deemed very wrong to doubt that the man is reformed, or to inquire whether his future life shows it. But let us look to yet another point. To whom do you confide this most difficult task of sentencing? To county magistrates, among whom are chairmen of quarter sessions, to police magistrates, and to the judges. Now, with all high respect for each class, let us consider their fitness for the task in hand. To begin with the last. I have known, more or less intimately,

several judges; and I confess my impression is, that though there are exceptions such as will be found in all large bodies, yet that on an average so highly talented, so honourable and upright a set of men is not to be found in any part of the world. But has their previous life been such as to give them a chance to know or appreciate the feelings of the class to be deterred? or have they had any opportunity of watching closely the effect which a certain discipline usually has in reforming a prisoner? Can a judge learn the different systems of all the prisons to which he sentences, or know the effect which such treatment generally produces? I fear not; and though I allow that they are, as I said, the most talented and most high-minded body to be found, yet I must doubt if they be the fittest to reform or deter the class with whom we specially seek to deal. The police magistrates—though doubtless not equal in talent as a body to the judges—have more opportunity of studying the particular classes to be dealt with, and the effect which imprisonment produces on those classes; yet, with their constant laborious work in their own courts, it is doubtful whether they can study closely the gaols (the management of which is vested in other hands), or the effects which the discipline produces on the prisoners. The county magistrates have far more chance of knowing this: most of them are in the habit of daily mixing with the labouring classes and learning their ideas and motives. Many of them are gaol visitors, and know the discipline to which they sentence, and can see the effect it produces while the imprisonment continues; but, alas! our system nearly precludes the knowledge of the ultimate effect, as it is not only no part of our duty, but it is usually considered to be contrary to our duty, to trace the discharged prisoner and know his future life. Gentlemen, can you say that our system is quite as well adapted to reform the individual as might be wished? But our work is not that of finding fault. Fault enough is easy to be found in all human institutions. The question is, can we do better? I think we may. I by no means attempt to suggest a faultless plan. The question is whether it is better than the present one, and most thankful shall we be to any who will make the best improvement on the plan proposed. I would suggest that the length of the detention should be governed less by the difficult calculation as

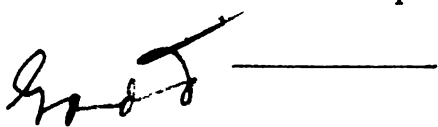
to the precise degree of turpitude of the particular offence than by whether it is a first or a second offence *after warning*. A first offence is usually a crime of impulse. A weak, unstable man, who has never before actually realised to himself the fact of his own fallibility, finds himself in some sudden temptation he has never contemplated. He falls a victim to his own weakness and thoughtlessness. He deserves punishment, but he by no means deserves the same amount of punishment as if he had gone into it with his eyes open, as he would do on a second conviction. A *short* and *sharp* punishment (ten days' imprisonment according to the present *general* rule, which for that term allows mere bread and water) would, as I believe, send a man forth with a most wholesome impression that gaol was a very unpleasant place. A bird caged for a few days is miserable; but if he lives through three months he becomes satisfied, and if he then escape may hereafter wish himself back in his warm and well-supplied cage. If a prisoner leaves gaol at the end of ten days, his horror of it is unmitigated; and as the ten days will not at the present average 15s., the effect will be produced at little expense to the county. But if, having committed what may be rather called a piece of most culpable thoughtlessness than 'a regular crime,' he again be tempted and fall, he not only deserves a more severe punishment, but the public safety requires it. He ought to undergo a long detention; but he ought not, both for his own sake and that of the public, to return to freedom till he can do so with a fair hope of safety for the future. How can this be arrived at? It is not difficult. If the judge or chairman will sentence him to two years' imprisonment, the first point of deterrence will be gained. A man who has once been convicted, however thoughtless he may be, will know perfectly well that on a second offence his sentence will be a long one, and length deters more than severity. Now I honestly say that, except in very rare cases, I would never have a man kept two years in a cell. But it would be by no means difficult to establish a second grade of prisons already closely analogous to our reformatories, to which, by the permission of the Secretary of State, and under the care of his inspectors, prisoners might be removed, for so long only as they behave well, from the gaols, and set to hard, bodily, outdoor labour, and from thence be

allowed to go on licence to places of work to support themselves so long as they continue worthy of such trust. Such an idea will appear to many wild and chimerical; yet I trust it is both easy and near at hand. You may ask, where are these reformatories for adults to be found? I answer simply, our juvenile reformatories are fast emptying in consequence of the extraordinary clearance of juvenile crime. The industrial schools will now take nearly all the boys at a cheaper rate, and our reformatories may take men. If this be done, does not a system at least preferable to the present appear to be within our reach? It would work thus: a prisoner whose history and character were known to be tolerable would, if he pleased, claim a summary trial, and receive a most irksome but short imprisonment. If he be a stranger to the country, and like to say where he has lived previously, inquiries are easily made through the police, which might induce the magistrates in petty sessions to grant a summary trial; if he cannot show any proof of previous honest repute, he would be committed to quarter sessions or assizes. Of course a man known to have been previously convicted would be also committed for trial. Here, if found guilty, he would probably be sentenced to two years' imprisonment, with a hope that if he behaved well he would be removed to a reformatory (by whatever name it might be convenient to call it), and after another period of good behaviour be licensed to earn his own living, under the surveillance of the police, with liability of his being returned to the reformatory as prisoner on any misbehaviour before the termination of his sentence. On a third offence he would probably receive a long sentence of penal servitude, the latter portion of it to be spent on licence under surveillance. What, then, would be the probable effect of such a system? At first sight you will say that it would not deter first offenders. Yet I believe that even here it would not be found wanting. Ten days' bread and water do not permanently weaken a man, but they are most unpleasant for the time; and if every man who goes to gaol tells his friends how unpleasant he has found it, your principle of deterrence has more weight than under the present system. But deterrence acts far more strongly after than before the first conviction. It hardly occurs to a weak and thoughtless man that he can subject himself to

punishment, but when he has once suffered a most unpleasant ten days' imprisonment he will greatly dislike the idea of a possible two years of the same. Still some will fall a second time, though fewer than at present. But a sentence of two years will stop the possibility of a habit of crime. This sentence, it is true, will be rarely, if ever, carried out in a separate cell. Possibly, even after three months' imprisonment, he may be removed to a reformatory, and after three or four months of labour he may be let go on licence to a place of work to support himself during seventeen or eighteen months of surveillance. Now this very working under surveillance I hold to be the most valuable part of the proposed system. Some object that it takes away from a man's freedom. It does so. A man who breaks the law must have his freedom interfered with. It is deterrent, and therefore right. It lasts for long, and therefore for long protects the public from his depredations, and gives his own mind time to recover and reform. Yet this length of time is at no expense to the public, as the occasional inquiries of the police will be at no additional cost. Surely the more we can use a long surveillance which costs nothing, and allows a man to support himself and benefit his country, and the less we use a prison which costs much—which does not allow a man to work for himself, but makes the public support him—the better. Surely the more we use a system which gradually prepares a man for honest labour, and watches him till he is firmly established in it, and the less we use one which first unfits him for it, and then casts him adrift in his weakness to contend helplessly in the hardest struggle of life (for such surely is the state of a man turned friendless from the gaol door), the more chance we have of stopping crime. But some tell us that this cannot be done; that unless a man carefully conceals the fact of his having been in gaol he can get no employment; that unless he begins his course of honesty with a lie he cannot prosper; that the public will sanction a thief in getting a place of trust under a false character, but will not allow him to get a place without trust, if the truth be known. Gentlemen, it is not so. The public are not quite such fools as some imagine. Of course a man who cannot claim to be trusted cannot expect the wages of one known to be worthy of trust; but when under the watch of the police many will employ them

though in lower grades and wages. But some say that the police cannot be trusted, that they will persecute a repentant thief and 'hunt him back to crime.' Of course they will in some cases; it is but their duty to do so. If the police in my neighbourhood find that I have hired a man as my butler who has brought an apparently high character, and in whom therefore I place implicit trust, but whom they know to be an old habitual burglar, can they with honesty do otherwise than inform me of the truth? They would deserve instant dismissal if they did not do so. But if I, knowing all that man's history, have hired him to work on my farm at a labourer's wages, the police can tell me no more than I already know. But, more than that, I have now for six or seven years been in the habit of sending boys out from my reformatory and putting them under the charge of the police, wherever they go to work. I have certainly sometimes found a policeman who took the not very unnatural view that his first duty was to clear all bad people, or people who had ever been suspected of ill, out of his district, without caring what became of them; but I must say that in three cases out of four I have found the police watch them most carefully and most kindly, and often be far better friends than their own relations; and I say this not only of those of my own county, who are longer established than most rural police, and who might be expected to be, as they I believe are, superior to the lately organised forces, but in nearly all parts of England, with old or newly established police, I have usually found the same care and consideration where prisoners are properly put under their charge. This, gentlemen, you in Ireland will believe readily. Believe me, if our English police are supposed to be inferior in kindness and good sense to yours, it is only by those who have not tried them, or tried them unfairly. But there is danger in commencing a new scheme. Has this system ever been tried, and has it answered? Gentlemen of Ireland, I believe that you know well that it has succeeded with one phase of crime, for under it the heavier crimes of your country have been reduced in number by more than one-half in seven years. In England an exactly similar system has been tried on a totally different portion, namely, the juvenile criminals, and there the committals have decreased 42 per cent. in four years. I only

wish to extend the same system, which has worked so admirably in two cases, to all classes of crime, with some increase of that discretionary power to the executive which has formed and must form the basis of the improvement. I maintain that the plan I have suggested might be tried without new laws or new expense, and would, without the cost of a shilling to the country, effect great improvement in the points where we are now most deficient. It would give a deterrence clearly understood by the classes who are to be deterred. It would give the best human means of reformation, viz. : firstly, punishment which should weary and incline to repentance ; secondly, an opportunity for acquiring habits of hard work ; and thirdly, a careful watch and superintendence during that most dangerous and difficult period of his first return to the world to commence a course of honesty. It would by its supervision afford a true index of its actual success, instead of the mere guesswork of statistics which exists where the discharged prisoners are lost sight of. It would save both magistrates and judges from being compelled to decide, on half an hour's examination, on a certain course of treatment which *shall* be the best to reform the prisoners, about whom they know very little, and to deter others of whom they know nothing ; and finally, it would stop that lamentable repetition of three months' sentences, which does not deter, which does not reform, but which does harden, and does manufacture habitual criminals at an enormous expense to the nation.

ADULT REFORMATORIES.¹

FOR some sixty years great attention has been paid to our systems of dealing with crime. Numberless variations have been adopted, yet, if we may judge of the public opinion from the public press, our present arrangements do not appear to be entirely satisfactory. While we fully admit that it is well worth our paying highly to repress crime, it is natural to regret that our convicted prisoner should cost more than an honest

¹ Paper read at the Social Science Association, at Birmingham, October 1868.

man and his whole family—and should earn next to nothing—while his family, if he has one, is maintained by the parish. It is still more unsatisfactory to see in the judicial statistics just published, that out of 145,184 persons in England and Wales committed to prison in the year ending last Michaelmas, 46,415, or nearly one-third, were known to have been previously convicted from one to ten times.

The public has frequently demanded and obtained an increased severity, and the Home Office put forth circulars professing greater stringency, yet the total number of convictions, and the proportion of relapses, seem to increase; and occasional outbursts of crime scare London from its propriety, and greater severity is demanded, and then the subject is forgotten till some new access shows that we are no safer than before.

We are apt to forget that there are two parties concerned in the repression of crime, and that unless these work together they simply counteract each other. 1st. Each judge or magistrate is required to pass such sentences as he thinks equivalent to the offence committed. 2nd. The executive, *i.e.* Home Secretary, Gaol Governors, Visiting Magistrates, and Co., have little or no communication with the judges, but they have power to render each nominal sentence more or less severe. It is a principle which, whether sound or not, is strongly maintained, that the most entire discretion be left in the hands of those whose duty it is to sentence; and not only that no strict rules be laid down to fetter this discretion, but that no principles on the subject should even be discussed or accepted. Each judge or each bench sentences according to his individual or its collective opinion, and is responsible to none for the results. Therefore, in proportion as the executive makes the pain of a sentence more or less severe, the judge makes the sentence shorter or longer, and the effect on each criminal is the same as before.

A curious instance of the manner in which a weak attempt at severity often defeats itself is given in the circulars addressed by the Home Office to judges, recorders, and chairmen of quarter sessions, on August 15, 1864, in which, after explaining the provisions of the then recent Penal Servitude Act, as to the remission of sentences on ticket of leave, the report of the

Royal Commission on penal servitude is quoted, that 'sentences for life should only be passed on men guilty of very aggravated crimes,' and these 'never ought to regain even the qualified freedom of a ticket of leave;' and then it is observed, 'The courts before which offenders are tried will therefore make a distinction between *the most atrocious* criminals and those whose guilt, though aggravated, is *one degree less*, by passing sentence for life on the former only, and on the latter sentences for a definite, though in some cases a very long term of years.'

Before this 'recommendation' was made, a prisoner sentenced for life received a ticket of leave in about fifteen years. Had it not been made he would now have remained on licence for his life, free to support himself, and, so long as he lived honestly, in no way hindered or interfered with by the police, but liable if at any time he relapsed—even but slightly—into crime, to be recommitted on his former sentence. He would have been at large, but the public would have been protected by the supervision from almost the possibility of his relapse into crime, and yet the sentence for life would have been frequently passed.

But since the recommendations of the Royal Commission have been carried out, a sentence for life is so rarely passed that it is virtually abolished. We find that in 1861 sixteen men received life sentences; in 1862, twenty-five; in 1863, twenty. But since the issuing of this circular, in 1865, four; in 1866, two; in 1867, three such sentences were passed. So that the result of the severity is only that punishment has been increased in nine cases and relaxed in fifty-two; and the latter number are left at the end of fifteen years perfectly free to pursue their former avocations without hindrance.

Such will be nearly always the result of a half-measure of severity affecting only the treatment, but not the sentence of the offender.

On the other hand, it is notorious that the severe punishments nominally in force at the beginning of the century resulted in great laxity of punishment. Those who were robbed would not prosecute; juries would not convict; and the relaxation of the apparent severity caused a positive diminution of crime.

In the same way, when the juvenile reformatories first be-

came general, many gentlemen, who judged by their own theories, but were ignorant of practice, prophesied that these institutions would be found so comfortable that they would form a premium, and increase the number of crimes. Yet the result was that the number of juvenile commitments, which had for many years been gradually increasing, and in 1856, when the reformatories first came fairly into work, had reached 13,981, in 1860 had fallen to 8,029. And though the number has increased in the last seven years to 9,631, yet this is a less rapid increase than that which was in progress before 1856.

But a point of far more importance than even this decrease in number is, that whereas a large proportion of the 13,981 were third, fourth, and tenth convictions, and were therefore hardened and skilled thieves, we now find that of the 1,680 boys and girls sent last year to reformatories, 909 had not been previously convicted; 530 had been previously once in prison; 141 twice; 56 three times; 25 four times; and 16 five times; *i.e.* 238 cases have this year been found in all England of boys or girls convicted a third time or oftener. But in 1858, before the Reformatory Act had made much impression on the juvenile crime of London, there were in Middlesex alone 456 boys four times convicted, of whom 165 were at least eight times convicted.

It is evident to all that practised and skilled offenders will generally commit more crimes with impunity than new hands, and therefore, as the decrease in number of convictions has taken place in the practised hands, we may be sure that the number of undetected crimes has decreased far more than the detected ones.

If this be so, and I only quote the Public Accounts, which can be simply and easily verified, we must allow that a cry for nominally harsh measures, which we have not the power to carry out, and which merely result in laxity, is childish and absurd; and that what appears to the vulgar eye to be a relaxation of severity will often, by inducing longer sentences, afford a greater protection to the public.

No judge or magistrate could in former days have sentenced a boy of fifteen to five or even two years of imprisonment. But now, when it is understood that a five years' sentence to a

reformatory means about one month of sharp, separate imprisonment, about two years of labour on a farm, and three years of earning his own living under surveillance, sentences of five years have become frequent, and crime has diminished.

Again, it is always desirable that a national system for the repression of crime should be complete and homogeneous. I am the last man to discourage experiments in search of improvement, but such experiments should be made on a small scale, and their success carefully tested by their actual results. But if these results be found satisfactory in one branch, they should, as far as may be, gradually be extended to others, so as to form a complete and harmonious system.

At present, in England, our juveniles are dealt with by a short imprisonment on a first offence, and on a second by one month's imprisonment, followed by two or three years of farm labour under a strong restraint, and two or three years of earning their own living under surveillance. The success, as we have seen, has been very great.

A similar system has been tried with Irish convicts by Sir Walter Crofton, viz., from four to nine months' separate imprisonment; somewhat more than half the sentence spent on public works, under strict discipline; a short period then passed in an intermediate prison, with less physical restriction; and about one quarter of the sentence spent in apparent liberty, at no cost to the State, but under surveillance, to see whether the good intentions professed while in prison are carried into action in freedom. We may fairly say that the whole civilised world has acknowledged this as a success.

In England an apparently similar system was tried with convicts for many years, only that the licence was granted at the earliest legal period, irrespective of good conduct; there was no intermediate stage, and the surveillance prescribed by law was wholly omitted in practice. We may fairly say that few systems have given less satisfaction. In 1864, however, the surveillance was made real and efficient, and the remission on licence (which cannot take place before three-quarters of the sentence are passed) is further delayed unless the conduct of the prisoner is good. Since that time we have been able to watch accurately the results of the system, and its effect is

decidedly good. The men on licence report themselves regularly; most of them are in constant employment, and those who relapse into crime, being under watch, are more easily caught and recommitted. The system, on the whole, is working well, only requiring the improvement of granting a longer portion on licence (and thereby increasing the length of sentence, and so giving a longer security to the public), and the addition of an intermediate stage of increased liberty, as a trial between the public works and the licence.

Even for those who are convicted for a first time our system is not bad. These merely require a short, sharp sentence, at small cost to the public, just to warn them that they have done wrong, and that it is known and remembered, and that if they steal again they will be more severely punished. For this ten days or a month in one of our prisons is as wholesome a mere punishment as any that I know. The man has not time to lose his habits of work, nor to get used to the prison, and when he comes out he returns to his labour, and, in four cases out of five, is cured.

But for those who are past the age of sixteen, and have been previously convicted, yet are not deemed worthy of penal servitude, we continue a system—time-honoured, indeed, like many other evil courses, yet unphilosophical and unnatural. We take a man who has fallen into more or less of evil ways; we shut him up for months or years in a square box; we cannot compel him to do real earnest hard work, and we provide him with regular food, unaffected by his conduct or work, and, after keeping him in prison till his hands and muscles have become soft, till he has lost his bodily and mental fitness for work and habit of shirking for himself, his food coming to him daily without care or exertion of his own, we open his door and turn him out—unused to labour, unused to the vicissitudes of weather—and we neither aid him in getting honest work nor hinder his return to evil courses.

We act as if we had the most implicit confidence in the power of the gaol discipline to reform a man with such certainty as to ensure us from his ever doing wrong again. For myself, I have no such blind confidence in reformation; and I should like to keep a watch for a time on those who have done wrong.

I believe that such a watch is a more wholesome kind of punishment, as well as far cheaper, than an imprisonment. I am aware that some tender-hearted gentleman will talk of the hardship of suspecting a man who has indeed stolen, but has since 'expiated his offence,' as it was once absurdly called, by an imprisonment. I have had much to do with criminals, and I know well that there is scarce any time when a man requires a friendly watch so much as when he is first turned out from a long imprisonment in gaol.

But to take the facts of the case as given in the statistics—not indeed as being perfectly accurate, because many, of course, are entered as first convictions merely because their antecedents are unknown; but a closer examination into the antecedents of prisoners proves that they are less wrong than we should have expected—we find that a short imprisonment usually answers its purpose, because out of 98,775 first convictions, 19,313, or not quite one in five, relapse once. But of the latter number, 8,369, or nearly one half, relapse a second time. Of these, 4,779—more than half—relapse a third; and of these, 3,169, or nearly three-fourths, relapse a fourth time. None can doubt that our three or four times convicted offenders are the most dangerous class, as well as the most fitted to corrupt and instruct beginners in evil. It was the breaking down of this class among juveniles that caused the extraordinary reduction in crime before quoted. Yet it is just at this point that our system is the weakest and shows the worst results.

Can we at this point assimilate the middle stage of our system, which works so ill, to the first and last, which work well? Can we secure the richer from the plundering, and, what is far more important, the poorer from the example and temptation of skilful thieves? Can we enable our judges and magistrates to secure the public by a longer sentence, while yet it may be not too severe to be generally passed on a second offence? I have answered this question before, and may answer it again in nearly the same terms. The experiment I would suggest (for, however confident I may feel, I would rather try an experiment, and let it grow by its own success into a system, than embark on a large venture at once) would, as I have said, require neither more money nor new laws, but only

the simple approval and co-operation of the Secretary of State, who might at any moment, if it were unsuccessful, restore matters at once to their former state.

In the last report on reformatories, the inspector declares the number at present under detention to be large and increasing, but at the same time he points out that this is chiefly owing to the increased length of the detention, which he justly condemns; and if the wishes of the Home Office were complied with, and few boys were received on first conviction (instead of more than half the number, as at present), many of the present establishments might well be spared. I would not hesitate, if no better can be suggested, to offer my own for the trial.

If this were accepted, I should propose that the boys now in my reformatory should be removed to others, and that the buildings and land should be accepted by the Home Office as a prison—or let us call it a house of correction of the county. I am not aware of any legal definition of a prison that would prevent this, except that it must be the property of the county and approved by the Secretary of State. The first might be easily arranged if the second were accorded.

The present law gives full power to the Secretary of State to remove any prisoner from any one prison to any other, and to remove back again at pleasure. I should then select a few men committed to the gaol of my own or neighbouring counties, and allow them to petition the Secretary of State to remove them to the new house of correction for such time only as they behave well. The petition would further state that they had had the rules read over to them, and that they understood and agreed to the terms of their removal, and it must be backed by the governor and visiting magistrates of the gaol, and by the managers of the house of correction. If the Secretary of State granted this petition, and the men conformed to the rules and worked with earnest good-will on the farm, they would continue there for the remainder of their sentence. If anyone attempted to abscond, or refused or neglected to work, he would be simply placed in the cell till application was made to the Secretary of State to remove him back to the gaol. He could not complain of this as a hardship, because it would only be a return to his original sentence.

Those who behaved well through their term of detention would then return to a kind of work and to habits not dissimilar to those to which they had been lately subjected. If a man's release occurred during a hard frost, or during the early spring, when employment is scarce (a matter of much importance, if we care for the diminution of crime, though now rarely, if ever, considered in the sentence), he would be allowed to remain in the house of correction till work could be found for him.

The expenses might be met by simply allowing the gaol to transfer to the house of correction a weekly sum not exceeding the total cost of the prisoner while in gaol. This would make no confusion of accounts either in the Home Office or in that of the Paymaster-General.

Hitherto no fresh legislation would be requisite; the mere consent of the Secretary of State would suffice. But when the system had been tried, and found to succeed, it would be highly desirable to appeal to Parliament for power to release a prisoner, on licence, to earn his own living under watch of the police. This would be no new or untried experiment. It has long been used with the greatest success in reformatories and among the Irish convicts, and is now working admirably with English convicts. That which has succeeded with boys and convicts may surely be applied to the prisoners of our gaols. But it must be clearly recognised that such licence is not tantamount to a pardon, but simply a permission for a man to earn his own living during good behaviour, but liable to be revoked at any time, not merely on account of a fresh case of felony, but for drunkenness or misconduct of any kind. Even if a man were for some time continuously out of work, he should be required to return until he could obtain fresh employment.

Were this carried out, it would probably become the custom to commit those who were for a second time convicted to two years' imprisonment instead of one, warning them at the same time that it depended on their own behaviour to diminish their punishment greatly. This proposal would, I think, meet the conditions which I have stated to be desirable in making an experiment. The gain, if it succeeded, would be important; the risk would be very small, and, if it should be found to fail, all

might be at any time replaced *in statu quo*, without the cost of a shilling to the Government.

The objections to it (at least all which have been yet made) are, I think, easily answered. They are—1st, that the prisoners would escape. I well remember the time when the greatest pains were taken to search prisoners, even to the frequent unripping of the beds, to prevent the possible secreting of a nail wherewith the cell door might be opened, or of a scrap of iron which could be sharpened into a knife. The safety of the gaol was supposed principally to depend upon this care and watchfulness. Yet now every prisoner has a knife in his cell as a part of his regular furniture, and escapes of violence are much less frequent than in those days. Seventeen years ago most of us will remember that if it had been proposed to keep a number of boys imprisoned in a field, with common hedges round it, and public footpaths running through it, the proposer would have been deemed little short of a lunatic; yet now the system is accepted not only as a possibility but as a decided success. I have had a good deal of experience with men and boys, and I have no doubt that men would be far more easily restrained than boys have been. They generally act more upon reason and less upon sudden impulse, and therefore it is more easy to trace and follow a man than a boy. But were it found necessary to take further precautions, a few simple remedies might be adopted which would render escape almost hopeless. The mere publication in the ‘Hue and Cry’ of the description of a prisoner, with a reward for his apprehension, is generally successful. The cutting quite short of a patch of his hair is a mark which cannot be obliterated but by time. Various other methods might be adopted which a prisoner would readily consent to rather than remain in gaol, yet which would render his escape hopeless.

A second objection is made, and not unfrequently, that the cutting of the hair of a prisoner, or the keeping a watch upon him when he returns to apparent freedom, is an interference with the liberty of the subject. I confess I have no great care for the liberty of one convicted of offence against the laws. I regard the safety of the honest man from theft more than the liberty of the thief who has robbed him; but as the objection has been made, I am ready to meet it. The offender has been sentenced

by the laws of his country to a certain punishment. If he chooses to accept a mitigation of this punishment on certain conditions, he cannot complain of the conditions he has accepted. He has only to refuse obedience and return to his original sentence.

Thirdly, it has often been said, and quite truly, that a man's good behaviour in gaol is no warranty of his behaving well when he leaves it. A ready obedience yielded to the rules of a gaol, where a prisoner has little opportunity of going wrong, is no proof that when that unnatural restraint is suddenly withdrawn he will not at once revert to his former courses. It is not altogether hypocrisy which inclines an old thief to conform implicitly to the rules of the gaol, but is simply a disinclination to strive against what he knows he cannot overcome. But the habits of the gaol are so entirely unlike those which he *can* continue on his release, that he sees no connection between them, and reverts at once to the habits of his former life. But if he behaves well—firstly, for a short time in gaol; secondly for a longer period, in the house of correction; thirdly, for a yet longer time, earning his own living in apparent freedom, yet with watch over him, and the knowledge that a very slight lapse will return him to imprisonment—we have as good security as we can hope to gain that when the last slight restriction is withdrawn he will continue his acquired habits.

Fourthly, it is objected that such a system would weaken the deterrent effect of imprisonment. I believe, on the contrary, that it would greatly increase it. At present it is absolutely necessary that a man sent from the prison door to earn his living in the world should be strong and fit to cope with its trials. This compels us to *feed our prisoners well before their discharge*—and this again must tend to weaken their recollections of the discomforts of gaol. The class who are most likely to become future criminals take their ideas of gaol, in a great measure, from the experience of those who have suffered its penalties. If they hear from those who have tried it that the gaol is 'very bad at first, but nothing like so bad when you are used to it,' their fear of it is greatly lessened. But if a man is to be removed from it to a house of correction such as I have described, it will not be requisite that he come there strong and fit to earn

his living. His low and deterrent diet may be continued to the last ; he may come out too weak to work hard ; but he will have time to regain his strength in the house of correction, while his dread of the gaol remains undiminished.

Again, the lengthening of the sentence, which would fairly be given with a knowledge that the prisoner may decrease it by good conduct, would far more than compensate for its relaxation, and would have this additional effect, which the mortal wisdom of no judge can attain, that it will adapt itself especially to each particular case. If a man be hardened and dangerous, though he may show no sign of it in the dock, it is almost sure to appear in the house of correction. If he be inclined to reform himself, it will be tested by several grades of increased liberty ; and if he behave well under all of these, he may be fitted to return to freedom.

I have proposed that the visiting magistrates of the gaol should be authorised to pay to the House of Correction a weekly sum for each prisoner, not exceeding the total cost of his maintenance in gaol. I am perfectly aware that this, in the case of one or two prisoners, would not be a good bargain for the gaol ; but, in the first instance, a high payment would be necessary to the house of correction, as it would be essential that we should begin with a small number, and only increase as we found, upon trial, that we could do it safely. On the other hand, the gaol would be no more damnified than if such prisoners had not been committed to it. But I have no doubt that when the house of correction came into full operation the cost would be far lower than that of the prison. In our reformatory as in most others, the committee is composed of some of the leading magistrates of the county, and it might safely be left to them to see that the payment from the gaol was properly lowered.

But probably the most important advantage of all would arise from extending to this class of prisoners the system of release on licence under surveillance. Of all measures of punishment or prevention I consider this the most valuable. As a punishment, it is so slight that it may be continued for a long period. If twelve months of surveillance be equally disliked with one month of imprisonment, the one will keep a man out of

mischief for one month, the other for twelve. The former will cost the honest ratepayer two pounds, the latter not one farthing. Imprisonment more or less unfits a man for hard labour—work under licence especially accustoms him to it. No judge can tell how much each prisoner will suffer in the time allotted to him. One man will suffer acutely from that which another will hardly feel. But surveillance has this peculiar quality—that it adapts itself to the requirements. If a man is willing to work steadily and to behave well, he scarcely feels that he is not entirely free ; but if he requires restraint, it increases till he lives in constant fear of a return at any moment to a prison ; the deterrence of which has not been allowed to abate by long use, and therefore remains in full force.

Allow me to sum up by saying that I am ready to maintain the following propositions :—

Firstly—That adult reformatories or houses of correction (the name signifies little) would render our gaols more deterrent than they now are, and would themselves deter by the greater length of their detention.

Secondly—They would send the prisoners back to society so much better fitted for work that there would be less danger of relapse.

Thirdly—They would, by their surveillance, physically incapacitate a man from a course of crime for a far longer period than the gaol.

Fourthly—They would cost far less to the honest ratepayer.

And lastly—The experiment may be tried with good hope (not to say certainty) of success, without cost or risk to the State.

V.

IMPRISONMENT OF CHILDREN.

THE IMPRISONMENT OF CHILDREN.¹

It is an unpleasant task that sometimes occurs when we have to set ourselves in apparent opposition to others for whom we feel both respect and friendship. We can only make it less unpleasant by remembering that the apparent opposition is not real, that the objects of both are identical, namely, the finding out what is truth, and that, although they seek to do good by one means and we by another, the doing good is the real object of both, and our only contest really is, which means are most effectual to our one end.

Some gentlemen have given notice that they wish to promote the law, or at least the practice, of never sending children under sixteen years of age to prison. There have been several articles on this subject, in your own and other papers, tending to this point, but they have been hardly sufficiently definite to call for a decided answer. Now, however, it appears that a number of gentlemen are joining formally for the purpose; and it becomes necessary seriously and earnestly to inquire, What is the truth?

It is very commonly said that it must be wrong to send a child to gaol; first, because the poor child knows no better; it is the fault of the parents who have brought it up badly, and they ought to be sent to gaol in its stead; secondly, because by being sent to gaol and herded with elder criminals the child must be corrupted; and, thirdly, that if the child once has a prison brand upon him he is disgraced for life, and will never again be able to obtain honest employment, but must fall from bad to

¹ Reprinted from *The Friend of the People*, March 7, 1861.

worse, and be convicted time after time till transportation or the gallows ends his course.

I am perfectly aware that, in thus stating and overstating my adversaries' arguments, I should be committing an unpardonable indiscretion were my object that of gaining a victory on the mere argument. I enable my opponent to shift his ground if he please, and lay myself open. But, sir, I do this intentionally; I merely wish to bring forward *all* the arguments on both sides, and let the truth be proved.

Now, I must maintain, first, that it has always been a maxim of our law, *Ignorantia neminem excusat*. We cannot admit that every man should be punished or allowed to escape, in proportion to the opportunities he has had of knowing better, because it is impossible for us to estimate those opportunities accurately. Divine judgment will know them all, and will no doubt consider all; human judgment cannot do so. But is it by any means certain that the children of what we call bad parents—the neglected, the untaught—are the most criminal?

I have had some experience both in my own county and in others. I have lately been inquiring a good deal amongst the regular habitual boy-thieves of Middlesex, and in nearly every place it certainly has appeared to me that the generality of the regular thieves are not the children of the lowest or worst parents; a large portion of them have been to good national schools at their parents' expense, and have profited fairly by it so far as instruction goes; and I cannot but fear that most of them have learned better, though they do not profit by it.

Secondly, the evil of being herded in gaol with other criminals who would be sure to teach them all manner of evil *was* a barbarity and disgrace to our system, which could not too strongly be reprobated. But as I believe it has wholly ceased to exist, we will only say, 'Peace to its Manes!' At present I believe it to be nearly impossible in any tolerably well-organised gaol for any *inexperienced* prisoner to communicate or receive three sentences to or from any other during a three months' imprisonment.¹ Old practised gaol-birds, indeed, can

¹ Mr. Baker cannot have read the recent reports of the Inspectors of Prisons, or he would have found that, in several gaols, the herding system still continues. (See *Friend of the People*, No. 15, p. 237; and No. 25, p. 396.)—ED.

communicate *with each other* in a manner very difficult to detect, but not boys on a first conviction. If so, objection No. 2 falls to the ground.

But, thirdly, it is said that the prison brand lasts for a lifetime, and precludes all hope of honest employment, so that a boy once convicted *must* continue falling from bad to worse.

Now, here is a matter to be judged of not by what we *fancy* to be likely, but by what experience actually proves to be or not to be true. It is one of those facts which are simply reducible to proof if we can get sufficient data. I cannot pretend to say exactly what may be the proportions *throughout all England*, but some years ago I took pains to get returns from several counties before the reformatory system had produced much effect. I have now before me the returns from several prisons in different parts of England, which, so far as they go, appear to show that, in average counties, about 12 per cent. are convicted a second time, but in dense populations from 20 to 30 per cent. They are as follows:—

Swansea, 10 per cent.; Norfolk, 12½ per cent.; Notts, 11 per cent.; Kent, 13½ per cent.; Berks, 15 per cent.; Oxon, 6½ per cent.; Preston, 17 per cent.; Surrey, 20 per cent. In my own county, where I have been able to trace it more accurately, in Cheltenham, previous to 1855, about 25 per cent. were reconvicted; in Gloucester (city), about 9 per cent.; and in the rest of the county, including the manufacturing district of Stroud and the mining district of the Forest of Dean, only about 4 per cent.

Now this is a matter easy of proof. If anyone doubts it, let him get a list of the boys committed to any prison in two years, and see how many of them are first and how many second committals. I think it will be found to be much as I have stated it. But it may be said by those not used to prisons, ‘A boy will be often convicted and not recognised.’ If you think so, ask any gaol officer or visiting magistrate whether this is likely to be the case. Or you may say, ‘Many of the boys have been convicted in other counties, but are not known in this gaol.’ If you think this, ask the police generally what percentage of the boys they take to prison are unknown to them; and I think you will rarely find 5 per cent. whose parents

are not living in the district whence they come, or who have not been known in that neighbourhood for many years. Vagrant children who may probably have been in gaol elsewhere are still to be found occasionally ; but for the last few years they have been very rare.

I hope I have not tired you with these long details. I am most anxious to have them weighed and sifted, so that, if they be false grounds or false deductions, they may be disproved. But, sir, if my grounds be right, it follows that, in most counties of England, out of eight boys committed a first time, only about one is committed again.

But again, some will say, 'They no doubt continue thieving, and live principally on plunder, but they are so clever that no policeman can catch them.' I have been *told* of such cases, but I confess I do not believe them. I have never met with such a case ; and I have found that all the cleverest thieves who have passed through my hands have, on an average, been rarely twelve months at a time without being caught, and usually not above six months at a time.

But if this be true—if boys do not go on thieving without being caught, and if only one in eight of those convicted a first time is again convicted—it must follow that seven out of eight do not return to evil courses, and, therefore, are not by any means ruined by the 'prison brand.' So far as my own experience goes, I must say that, though a boy finds it just at first more difficult to get employment, though he probably has to take an inferior place, with less pay and harder work, yet practically he does, in seven cases out of eight, get the work and keep it, rather the better for his experience of punishment ; and in the eighth case, when he does not find work, it is his own fault.

But let us apply another test to this calculation. We find by Mr. Sydney Turner's Report of 1860, p. 15 (not a matter of estimate, but a simple return of facts, which can hardly fail of truth), that the number of committals of boys and girls in the year ending December 31, 1859, was 8,913, of whom 1,330 were sent to reformatories, or nearly one in seven. But of these 1,330, 629 were first convictions, 371 were second, and only 330 had been convicted more than once previously. Now I believe

that there is scarcely any county, except Middlesex, where it is not the general rule to send every boy, on his second conviction, to a reformatory, and even, as we see, a very large number on the first. Of all, we may fairly conclude that, if 8,913 children are convicted, only 1,330 of whom are sent to reformatories, the other 7,583 are not driven into crime by the prison brand, or they would be caught in crime, and sent to reformatories on the second conviction.

But take another point; treat it as a financial question. 1,330 children are sent to reformatories; the expense thereof is about 60,000*l.* a year. Suppose we send 8,913, at a cost of 420,000*l.* per annum! Why, the Chancellor of the Exchequer would be obliged to withdraw the inestimable boon which he has just granted to the poor—of cheapening their champagne. I fear neither the Exchequer nor the public would stand such a call.

I am afraid I must abide by the opinion to which I came slowly, though long ago, that reformatories are much like hospitals—most valuable institutions for serious cases; that is, for cases where other remedies have been tried and failed; but that so long as experience shows that where eight boys are sent to prison seven of them practically do not go on in their course of crime, I think we are bound to try the lighter and easier remedy first. If that fail, *then* try the more costly but more powerful expedient.

At the same time, let me add that I would most gladly see all imprisonments of three months abolished; I believe that such a sentence is most mischievous. A year's imprisonment *may* give time to act upon a man's (or boy's) heart (though I doubt its often doing so); but three months will rarely make a lasting impression. It is long enough to secure him a high rate of food, and to give him time to appreciate the comforts of the gaol—long enough to soften his hands and muscles, and unfit him for rough hard work—long enough to insure that his place will be filled, and that he will have considerable difficulty in finding another; but *not long enough* to have much lasting effect on his heart. Now, a ten days' imprisonment, limiting him to bread and water—and not too much of it—with all the ways of the prison new and strange, will not soften his hands

or muscles, or weaken him for above a day or two. His master will often keep the place open for him if he knows that he is away for a short time; and the boy who has found out none of the comforts of prison will come out impressed with a conviction that it is the most disagreeable place he ever was in in his life, and he will try far more to avoid a return to it than if he had spent three months there—especially *if he knows* that his next offence will insure two years of a reformatory for which his parents will have to pay a portion.

Forgive this long letter; but I really am most anxious that this subject should be fully discussed, because I believe it to be one of great importance to the reformatory cause.

THE PRISON BRAND.¹

WHILE attending the Social Science Congress in Aberdeen I found myself compelled to bring forward several opinions greatly at variance with those of nearly all who were then present, including one old and much-valued friend, and many whom I trust, notwithstanding our different opinions, I may still call my friends, though of a more recent date. The points on which we differed were too large to be dealt with in a ten minutes' speech, even had they come directly under any of the subjects appointed for discussion; yet they are questions which deserve discussion, and it would be a pity if the earnest workers of the North and South should continue to hold different opinions, being unaware of, and unable to make allowance for, each other's views. Do not suppose that I am conceited enough to expect to convert my Northern friends to our Southern opinions; but I may hope to show them that we have some reason on our side, though, possibly from some difference of public opinion, or other cause, our views may not be applicable to their part of our country. Am I right in the following statement of the views of my Northern friends? I think they would say as follows:—

‘If a man has committed a crime—say, for instance, a theft

¹ Letter to the editor of the *Reformatory and Refuge Journal*, October 27, 1877.

of the value of one pound—it may be necessary to send him to gaol; but if so it is an unfortunate necessity, because the prison brand will cling to him for life, and he will find it, if not impossible, at least very difficult to obtain any honest employment; and when oppressed by poverty, and with his feelings hardened and soured by the gaol discipline, he is at least very likely to be driven into the habitual and permanent criminal class. If, on the other hand, he could have been punished in any other way for his offence, he would not have lost his self-respect, he would find employment readily, and would probably continue an honest and useful man for the rest of his life.

‘But with children the case is far stronger. Born of dishonest parents, brought up in poverty and vice, their offence is not their own fault; and to send them to gaol, and thus destroy their self-respect, sour their feelings, and stamp them as felons for the rest of their lives, is a wrong course, to say the least, when we might have received them at once into a reformatory, and saved them from loss of character and self-respect.’

This, I am told by a good authority, is a fair statement of the views of my Northern friends, and I have to show cause, if I can, why we in the South should differ from so moderate a statement of opinion.

Forgive me if I commence with a story I have told elsewhere, but it so far explains the principles on which we endeavour to act that I wish it were conspicuously written in every court of justice.

My friend Admiral Yelverton had a young officer under his command, enthusiastically fond of his profession and a rising man, but he did something wrong. I have no idea what his name was or what he had done, but the admiral spoke to him kindly (as he always would) but strongly, and finished by saying, ‘I regret much to say that you have lost my confidence.’ The young officer was greatly grieved, and replied, ‘It is very hard upon me, but I know you are right; I have deserved it, and I only say that if you call upon me to resign my commission I am ready to do it.’ ‘But, sir,’ replied the admiral, ‘I do not call upon you to resign your commission. I call upon you to regain my confidence.’

Every man who has done wrong ought to suffer some pain,

but ought to feel that he can reinstate himself, not by denying or concealing his faults, not by some one else forgiving him, but by a resolute and strong continuance in right till he shall have shown that he is truly worthy of trust. Such a restoration is indeed more difficult than the former means. The fault may be concealed, and the man sent to a new place, where he may start afresh with a supposed good character, as a doubtful sovereign or a slightly unsound horse may be sent to another market, and may in a fresh place turn out well; but a system which begins with and only succeeds through concealment of the truth is not a desirable commencement of a course of honesty. For us to forgive a man who has wronged us is indeed easy enough; but for him to regain the confidence of the world, to restore the character which has been forfeited, to give to kind but prudent men fair reason to believe that he is worthy of a fair amount of trust, must be a slow and a toilsome process. I have been told that it is too hard; that when a man has undergone the sentence pronounced by the judge he has paid his debt to society, and society ought to conceal the truth in order to prevent his having any more punishment. This doctrine I wholly repudiate. In the first place, I must deny that a culprit pays any portion of a debt to society by being shut up for a time in a gaol. On the contrary, he has caused to society an additional injury, probably far exceeding the money value of the theft, by the cost his imprisonment has inflicted on the honest. But independently of this a man can make no atonement, or justify a hope of future amendment, except by some act of his own free will.

I have just received a report of a conference of the representatives of thirteen of the States of America to discuss the principles for reducing crime, and one saying especially struck me: 'The true principle is, then, that the man who has incurred punishment should, like one who has fallen into a pit, be required to struggle out of it, and not be allowed as now to endure out of it.' Had the conference given us no other great principle (instead of the many it has given), it would have earned the gratitude of crime reformers. If a man struggles out of a pit, we may have some hope that he will at least try to avoid such another fall; but if he lies like a log till some one else lifts him

out, and dries and feeds him, we should have but poor hope of his amendment.

But to say that this struggle, in addition to his imprisonment, would inflict too severe a punishment, appears to me to be a severe, and, I trust, unfounded imputation on the care of the judges or magistrates who pass the sentences. If it were to become the practice in Scotland, as it generally is here, for a man after his imprisonment to return to his home, where his crime was committed, and his character fully known—where if people trust him they do it with their eyes open—and if this should entail, in the opinion of the judge, more suffering than is necessary, in order to lessen crime he has only to shorten the imprisonment to whatever he considers to be a proper degree. To any degree to which this can be carried, the shortening of the imprisonment (which is no benefit to the man or the State, but a loss to the former and a heavy expense to the latter), and the inflicting instead an ennobling struggle benefiting both, would be an enormous advantage.

Though I do not agree with my Northern friends in their fear of the 'prison brand,' fairly considered and justly treated, I have for many years held a strong objection to the prison itself as being a vile, degrading, enervating, and withal costly punishment; and I trust, as an old and wise chairman of quarter sessions said to me long ago, that England will not much longer endure that imprisonment should be the only or chief means of repressing crime. I have now worked in gaols above forty years, and have felt increasingly how unequally the punishment pressed (a keen nervous man feeling it absolute torment, while a dull, lazy dog will enjoy it), how unevenly the so-called uniform system presses, giving pain to one, comfort to another; and, above all, when a man has just shown his weakness in resisting temptation, how utterly unphilosophical is it to shut him up in a square box, fed, warmed, and ventilated like a hothouse plant, unable to improve his condition or to learn to withstand temptation; and then, after he has passively 'endured' certain months, fixed beforehand, having no reference to his state of mind, or to his behaviour, or to any struggle at all, to take off his warm prison dress, put on his own old clothes, and send him forth without watch to keep him from wrong, without aid to

go right, but with a general impression that he had better go to some place where he was not known, and pass himself off as a man of good character, and begin a new, honest course—by a lie. I have long felt this deeply and have said little, because I never like to find fault with existing evils when I can see no better way. Now, I trust, a better way is appearing, though yet far off.

But though, as I have said, I object to the gaol *per se*, I do not object to the brand; nay, I heartily approve of it, and would on no account have it evaded, or ignored, or escaped, though it may be, and ought to be, honourably and openly cancelled. Admiral Yelverton told his officer he must regain his confidence. He did not tell him to deny or hide his fault. Will my good friends only consider, with that careful logic for which they are generally so famed, is it the fact of being sent to prison, or is it the fact of the crime, which disgraces a man?

But I am told that if a man be not sent to gaol—even though he have committed a theft—yet no one will know it, and so he will not have lost his employer's trust or his own self respect! Alas! alas! can such words be used seriously? And yet they would be too sad for a jest. What is the worth of a self-respect which hangs only on a concealment of truth? Can we encourage a lower morality among our people than the Spartan idea that theft is not dishonourable unless it is found out? Forgive me if I speak strongly. I believe the question to be one of vital importance to the class in whom the interest of the repression of crime section chiefly centres—that they should be restored to the world with as sound honest ideas as we can give them, and not with wrong notions of self-respect and of truth.

But some tell me that if such a man's true character is not concealed he will get no employment, and will be driven to steal. Is it possible that a charitable people like the Scotch will refuse to employ a discharged prisoner, not indeed in a comfortable, easy, well-paid place of trust, but at some work which shall afford him an honest living, and enable him after some years of good conduct to regain his position honestly? Or can so shrewd, sensible a people fail to see that if they drive off all their own untrustworthy men to find work where their characters are un-

known, others will do the like, and they will have the same proportion of untrustworthy men, only without knowing it? But after all, forgive my asking, is it actually the case that discharged prisoners have so much difficulty in finding work where they are known? Some years ago this was supposed to be the case in England, and it was so confidently stated that few ventured to dispute it. But now we know pretty accurately what becomes of all who leave our gaol, and we find a percentage of about 60 doing well in their own parishes, where their antecedents are known; 12 doing badly (idle, drunken, prostitute, or the like); 27 lost sight of (but many having gone to their homes in other counties); and 1 per cent. emigrated or dead. I doubt if they would have done better had their crimes been concealed or ignored; while, had they concealed the truth and obtained places as unstained men, and the truth had afterwards become known, they would assuredly have fared worse. With discharged prisoners as with all other mortals, Hotspur's advice is sound, 'Tell truth, and shame the devil.'

The only objection to the gaol brand is that it proclaims the truth. No thinking man can suppose that the gaol itself does harm to a man's character if it does little good. (I take it for granted that in Scotland, as in England, there are no gaols left where prisoners can talk to each other.) It only proclaims the truth that he has committed a crime, and certainly for the time lowers his self-respect. He ought to feel his self-respect lowered, but to feel that it may be regained only by a long course of truthful good conduct.

I have left no room to talk of the boys; but what I have said applies so nearly to them that more is hardly needed. If any of your countrymen should, however, favour me by a reply, or should wish for more explanation of our views where I may have ill expressed myself, and if you, sir, will grant me space for a rejoinder, I shall be more than ever your obliged servant.

CHILDREN IN PRISON.¹

As you have quoted me in your June number, I hope you will allow a reply. In the first place, you say that I would advocate the sending *no* children to reformatories except on a second conviction. Pardon me, this is not so. I object in nearly all cases to absolute rules, and I have always made and advocated some exceptions, but I certainly regret that so large a number as at present are sent to these schools. As I have repeatedly said, the four first years of our reformatories, 1856-60, produced an extraordinary result. Although they received only about 1,000 children per annum, juvenile crime was lessened by nearly 6,000 per annum, and the professional class of boy-thief was put an end to. This was done by taking all the often-convicted boys. Were reformatories to cease, and boys again to receive short sentences time after time, I have no doubt that juvenile crime would more than double and adult crime greatly increase. It is not, therefore, the use of reformatories that I object to, but what I hold to be the abuse, or over-use.

As has been said, my objection is the expense. I am told that expense is a low idea, beneath the consideration of philanthropists; but I have been taught that when we are using the money of others we ought, as honest men (which is a character I wish to keep), to be at least as careful of it as we should of our own. Now let us see what are the simple facts.

If we take the last five years that we have available, there were in England, Wales, and Scotland, on the average, 9,310 children per annum committed to prison. Of these, 1,617 were sent to reformatories, leaving 7,663 who were simply sent to prison. Yet what do we find to be the number of juvenile relapses per annum? Not 7,663, but 666, or not quite one relapse out of every eleven sent to prison. It will be said that some relapse after they are turned sixteen. I grant it: but say that one in five relapses—and this would be far beyond the mark—let us consider how we should act if we were dealing with our own remedies for our own evils, at our own cost. If you or I were suffering from severe illness, and two remedies were offered

¹ Letter to the editor of the *Reformatory and Refuge Journal*, June 18, 1880.

to our choice, one of which cost 60*l.*, and the other 1*l.*, the first being found to succeed in nine cases out of ten (and this is more than can be said of average reformatories), and the other in four cases out of five (and this is less than can be said of prisons), would not either of us give the 1*l.* prescription a trial, and if it failed adopt the 60*l.* remedy? I doubt if any one of your readers will say that he would not do so in his own case with his own money; and if so can we in common honesty be less careful of the money of others than of our own? So much for the question of whether we are not already sending more boys to reformatories than we ought; but to provide reformatories for all the 9,310 children per annum at a yearly cost of above half a million, when we will give very little to help the honest, is what I think none would seriously advocate.

Pardon my differing from you when you say 'If a child between thirteen and sixteen is bad enough to be sent to prison, he needs also reformatory education and training, and should receive it.' I do not believe this, as a general rule, to be the case. I believe that there is a very great difference between not only a first but a first detected theft and any later. Before he has been caught he fancies he is only 'taking.' He feels it is not quite right, but he seldom puts it clearly before his own mind as 'stealing.' When he is detected he requires not the full treatment of a reformatory, but some punishment that shall leave an unmistakable impression on his mind that it is 'stealing.' The question is, what should this punishment be? I do not think that a mere reprimand gives a fair chance to a weak-minded, thoughtless boy. Lord Norton's flogging would do somewhat more, but I think that nothing makes so lasting an impression as ten days or a fortnight in prison (a month should be the outside, two or three months harden him). You may call this cruel, but I hold that the greatest cruelty we can commit is to allow a boy to continue in crime when you can prevent it, and that nothing is generally so good a preventive after a first offence as a fortnight in prison.

It has been lately suggested that we should find some new punishment which shall be deterrent but not disagreeable, and shall prevent any disgrace from being attached to crime! Even were such a thing possible, would it be right? But it is not

possible. You may call your new place an asylum of virtue if you please, but the public will soon know that the boys are sent there for stealing, and they won't like them a bit better than if they had been in gaol. When will people learn that the disgrace lies not in the prison but in the crime that led to it? The trying to conceal the disgrace, to pass the boy off as one of unblemished character, and to induce employers to receive and trust him by concealing the truth, is surely not the right way to launch him in a course of honesty. Were it possible to blot out the fact of a crime, it would indeed be a blessing, but only to hide the truth is not really a good thing either for his employer or himself.

Pardon me for speaking strongly. I do not speak nearly as strongly as I feel. I believe this to be a question of great importance, and the more fully it is argued, and the sooner the truth, on whichever side it be, is arrived at, the better.

VI. GAOL LABOUR.

*GAOL LABOUR.*¹

THE question of 'Prison labour,' as it is called, seems to crop up every now and then, and there appear to be always found some gentlemen who have not given much consideration to the matter, or some M.P.'s who are obliged to obey the wishes of a small body of constituents, and who plead for the 'protection' of the supposed sufferers, though they are generally disinclined to Protectionist principles. Now, although we justices are likely soon to be disfranchised so far as any power of lessening crime is concerned, yet we have had some experience and some thought on the matter, and may be worth hearing. The subject, however, is one which requires to be viewed from several points.

In the first place, much confusion has arisen, and continues to arise, in the comparison of different countries from the misuse of the term 'prison.' In all other countries the term 'prison' is applied to places for the reception of those on long sentences, generally above two years, while those for prisoners of shorter terms are called gaols. Thus there used to be absurd comparisons between the earnings of those confined in the 'prisons' of Gloucester or Worcester with those confined in the American 'prisons,' forgetting that the former should be called 'gaols,' as containing chiefly men on sentences far too short to enable them to learn a new trade, while the latter contained only long-sentenced men, who could be made very profitable; forgetting also that in a country where labour is worth very much, prison labour, though less profitable than free labour anywhere, would yet be worth

¹ Letter to the editor of the *Wills and Gloucestershire Standard*, December 11, 1876.

far more than prison labour in a country where all labour was cheaper by one-half.

Thus, to speak correctly, the prisons of England do little, if any, mat-making or brush-making; it is only the gaols which compete with free labour in these trades.

Next let us consider the amount of competition of gaols with free labour.

The population of England and Wales in 1871 was 22,712,286. The daily average in gaol in 1875 was 18,487, or just about one prisoner to every 1,200 of the population. We are told that if it were not for drink and pauperism the number in gaol would be far lower; yet in France, with a fairly sober and frugal population, and with the blessing of a uniform centralised system such as we are about to copy, the proportion in gaol is about 1 in 600, or just double ours. Now if all the prisoners were first-rate workmen (instead of which a large proportion are cripples or half imbeciles), could a free population of 1,200 be seriously aggrieved by the competition of one additional hand?

But they tell us that protection from competition is not wanted for iron or cotton workers, and certainly not for farmers, but only for mat- and brush-makers. Landlords, farmers, and labourers must take their chance, and if competition lowers wages or profits, why, so much the better for the rest of the population. If we were to ask for protection from the competition of the vast Californian tracts of virgin soil, what yells would rise at our attempting to reverse the grand policy of Free Trade! We are told on all hands that corn will soon come in so cheaply from America when the Mississippi is opened that it will not pay us to grow it, and we must lay down our land to grass, and feed stock till we bring down the price of meat to the general consumer. I am sure Messrs. Morley and Mundella and all the mat- and brush-makers would hold this view, as far as landlords and farmers are concerned; but I fear that they are mere mortals like the rest of us. We are all earnest free-traders as regards the business of others, but we all think that our own, or our clients', or our supporters' trades really require a little protection.

But let us ask is there anything exceptional in the case of

VII.

REFORMATORIES.

ON REFORMATORY SCHOOLS.¹

THE subject of institutions, having for their end the reformation in addition to the punishment of offenders, has of late attracted so much attention, and I am thankful to say appears to be so generally considered as a movement in the right direction, that I am much tempted to put forward my own views on the question, not as intending to dogmatise on the matter, but simply by giving my own opinion to elicit those of others, so as to arrive as nearly as may be at the truth. And glad indeed shall I be if a discussion of the matter may lead to a more general study and knowledge of a subject which, while it nearly concerns the whole of the community, has been thought of by few, and practically known to hardly any.

Those who, like myself, have long and earnestly dwelt on the subject, cannot be sufficiently thankful for the rapid strides which the movement is at length making.

Three years ago the admirable philanthropic farm school at Redhill, itself of no longer standing in its agricultural form, with one other smaller school, which has since actually died of neglect and want of funds, were the only establishments of the kind in England; and those who only knew the excellent but costly arrangements of the former would hardly hope to find many bodies of sufficient weight and influence to support such undertakings.

Two years and a half ago—March 24, 1852—our school at

¹ Read at the meeting of the British Association at Liverpool, September 26, 1854.

Hardwicke began its work; and about the same time Mr. Adderley's school at Saltley, near Birmingham, Miss Carpenter's and Mr. Russell Scott's school at Kingswood, near Bristol, and Mr. Sturge's school at Stoke, near Droitwich, commenced their operations.

By last Christmas I believe the numbers had scarcely increased, but at present there are in action, or ready for it, in addition to the increased size of the earlier schools, one at Newcastle, one in Suffolk, one in Cumberland, one in Norfolk, and one in Devon, and one for females in Bristol, besides some in and near London, the Boys' Refuge, the Home in the East, the Brixton Asylum, and others. And I have great hopes that, ere the year closes, we may see many more in progress, as I myself know of four or five counties in which many gentlemen are anxious for such an institution, and in which they have all the requisites at hand if they but knew how easy it was to carry out their wishes.

In considering, however, the subject of reformatory schools, we must bear in mind that there are two objects to be sought, affecting two classes of the community, namely, punishment and reformation. The first has its deterring effect on the legally innocent; the second on the legally guilty. The first of these has, till within the last few years, been the only object thought of by the great mass of the public, the schemes for reformation having usually been so vague that practical men have refused to listen to them, and have considered their promoters as mere enthusiasts.

Now the tide is setting the other way, and many are beginning to doubt the deterring influence of punishment, and upon this point, only of late beginning to be discussed, the opinions differ extremely.

Some hold that we ought to trust to deterring influences only, and that all that is done towards reformation, that is, towards enabling and inducing a sinner to repent and amend, is, in fact, a lessening of the evil consequences of crime, and that so far it is a temptation to crime. There is a certain degree of truth in this, as those about to commit a crime do in some degree look forwards beyond its immediate consequence. This degree is in general very small, yet in some cases we find the

feeling strong. The irreparable consequences of a loss of chastity in women we justly feel to be the strongest assistant to the preservation of chastity.

Others again hold—and some of our most warm philanthropists are among the number—that the reformation of those who have erred is the only thing to be studied, and that this will be best effected without any punishment.

This, as a system, I hold to be more dangerous than the other extreme. If you take away all punishment from crime, you remove one of the strongest barriers against crime. It is all very well to say that men ought to be guided in an honest course by principle alone, and not by fear of consequences. I know not how the case may be when education shall have taught all men to be governed by higher motives to such a degree that principle will be always able to withstand temptation; but I do believe that, so long as we feel most keenly the necessity of praying that we ourselves be not led into temptation, so long we are bound to lessen the temptation of sin to others by giving even every adventitious strength to stand against temptation.

I think that none, who have had much experience in the visiting of the criminals in our gaols, will doubt that practically, were punishments withdrawn from crime, not only the numbers of legal criminals would increase, but that this very fact would increase the number of criminals at heart, and give us a greater number to reform (if we trusted to reformation solely) than we could possibly undertake.

The difficult mean to hit, therefore, is—on the one hand to do as much good as we can to those who are brought under our charge, while on the other hand we avoid, with all possible care, the adding a temptation to, or even the withdrawing a deterring influence from, crime in the eyes of those who are wavering between good and evil; or we may even say—between the wish for crime and the dread of its punishment.

I have dwelt long on this point because I believe it involves the most important consideration in the whole question of punishment and reformation; and the exact line to be taken between the Scylla and Charybdis forms, I may say, the only real difficulty connected with the subject.

The principles of reformation—as regarding the criminals themselves—are much more easily dealt with. Yet here we have also two objects to bear in mind—first, the leading the heart to repentance for the past; and secondly, the avoiding their running into—as well as the enabling them to withstand—temptations for the future.

We must remember that perfect reformation is no more to be hoped for than any other perfection in this world. Were we to keep each boy for only one month at our school, I have every hope that he would be a little improved. Were we to keep him ten years, we could not insure his future good conduct. We have, therefore, to consider first to what degree it will answer best to carry our attempts at reformation, and secondly, what will be the best means of rendering permanent the good effects we are enabled to produce.

But there is yet another point to be most zealously watched and guarded against, namely, that we do not allow the warm interest we take in the criminals under our care—or our own natural vanity in turning them out as creditably to ourselves as may be—to induce us to give them superior advantages, and thus make them an object of envy to the innocent.

It must always be difficult to avoid this. We are all prone—the educated more than the uneducated—to think others better off than ourselves; but, if there were once raised a general feeling that admission to a school of this kind is a thing to be desired, we should, I fear, have done a positive evil to the many which would outweigh whatever benefits we would give to the few.

The deductions from these considerations (whether faulty or not may be a matter of opinion) have led us to adopt our present system.

We hope—and so far as we can see we are borne out in our hope—that the world without—the legally honest—will see little to desire in the system which separates a child from his parents for from two to five years, giving, by the new Act, power to put all the machinery of the Poor Law Acts in force, to compel the parent to pay all he can towards the support of the child; while the boy himself is set to steady hard work, which will fit him to become, not a proficient in one of the more skilled

trades, which are an object of envy to those of the lower classes, but simply a tiller of the soil—a farm-labourer.

It is true that we endeavour to make our boys as good farm-labourers as possible. It is true that a good farm-labourer is in a really better condition than most artificers. It is true that if his wages are lower his rent and other expenses are lower in proportion, and that both his temptations to evil and his chance of being thrown out of work are less than they would probably be in any other course of life. Horace sang long ago—

‘*Beatus ille qui procul negotiis,
Ut prisca gens mortalium,
Paterna rura bobus exercet suis.*’

What he sang of the higher classes in his day will be found equally to apply to the lower classes in ours. Yet still the general feeling is, and probably will be for many years to come, all in favour of the occupation of the tradesman.

All this appears to point out agricultural employment as the kind peculiarly adapted to institutions whose aim is to unite real advantages to the boy with the absence of all which may appear, even to the ignorant, to make the effects of crime desirable.

But there are yet other advantages which are quite as important. The mind of a boy fresh from the excitement and passions of the streets of a town—the alternate crime and idleness—the lavish expenditure when lucky, and the cold want when unsuccessful—is in a state of feverish restlessness, which requires to be allayed before it can safely be operated upon. Now, I know of no employment which will allay the excitement and tranquillise the mind, so as to prepare it to be acted upon by a firm kindness, like steady hard digging.

A boy in this state often reminds me of such a field as I have occasionally had to take in hand, impoverished, out of heart, and full of weeds. My object is to get a good crop of wheat. To do this it is necessary, doubtless, to sow the seed. But, were I to begin by scattering a large quantity of seed over the ground, then ploughing it, then sowing more seed, then harrowing, then sowing more seed again, and then beginning to get the weeds out—‘*Risum teneatis amici?*’

I should prefer the plan of ploughing it, and letting it lie fallow for a time till I had as nearly as may be extirpated the couch and noxious weeds, and allowed the genial influence of the sun and air to mellow the ground. I should then add manure to strengthen and enrich it, and then, and not till then, I should put in—not an unbounded measure of the good seed—but just as much as I should judge would be able to come to perfection.

Now I believe that I feel, perhaps as strongly as most men, that sound religious principle must be in truth the only stay we can trust to for really reforming a boy. But are we then to treat its application with less care than that of seed wheat? I believe that to apply it well requires fully as much care and preparation.

Now this is one point in which lies, as I think, the great value of agricultural employment. A boy comes to us, usually quick and energetic by nature (for unless he be so he is not likely to have distinguished himself in evil), and with a restless craving for change and excitement caused by long-continued vagabond and lawless habits. Set him at once to tailoring or shoemaking, and while he feels an apparent confinement of his body within four walls his mind has full liberty to return in imagination to former scenes of excitement. But, on the other hand, put him to hard and unused bodily exertion; his energy expends itself, not only harmlessly but profitably, on the stiff clay; the very feel of the fresh air and the appearance of liberty tend to tranquillise and allay the feverish excitement, and, when the labour of the day is over, he is disposed rather to enjoy his rest in his new career than to revert to his former courses. He may probably, indeed, be disgusted at first with the hard work; not unfrequently he declares that he'll run away soon; but the very absence of walls and apparent restraint inclines him to put off his intention till by degrees he finds, not only that the bailiff is nearly always in sight, but that even most of the boys would prevent his elopement (for the boys by no means like runaways); and, seeing those around him contented and patient, he finds that a life of labour and regular habits is on the whole more to be desired than the excitement of lawlessness. The kindness too with which they are treated, for the bailiff is, and must be, kind

and gentle in his manner, though thoroughly firm and the discovery which they make ere long—though they are slow to believe it at first—that the managers are doing their work, not for pay, but for love, all tend to soften and subdue the rugged and hardened tempers, and to bring them into a state to profit by instruction.

The instruction indeed, that is, the daily two hours and a half of school, has been going on all the time; but at first those who have been well taught, of whom we have many, receive it with the old impression of school, *i.e.* a something unpleasant with which they have been bored; and those who are utterly untaught, of whom we have several, rebel against the unwonted application. X

But, after the cooling and steadying influence of the hard work and open air, and the softening effects of comfort and kindness have begun to operate, it is then that the true value and pleasure of instruction begin to tell; and, although given in such small quantities as may tend to stimulate, rather than to satisfy, the desire, it serves to prepare the mind to receive into a fit soil the due measure of the good seed of religion.

We have, indeed, been told, and by an authority we highly respect, that we do not devote sufficient time to intellectual pursuits; that our school, being intended to reform the mind, should give more attention to the cultivation of that mind than to the mere training of the body to toil; that intellectual power even in connection with muscular employment—*i.e.* skilful labour—commands a higher remuneration in the market than unskilled labour; and, more than all, that a proper exercise of the faculties prepares the mind for the reception of religious truth. Considering this, half an hour taken in the morning, and two hours taken in the evening, when the mind is exhausted by the bodily labours of the day, is surely too short a time.

I am greatly obliged to my friend for having stated his opinion so fairly and strongly, because it enables me to give more clearly the views on both sides of the question.

As I have before said, I feel anxious to avoid creating an impression that the admission to such a school, being in itself usually the consequence of crime, should be considered as an advantage, which the honest and industrious cannot procure.

This is always difficult to avoid. The natural tendency to overrate the goods of others, and to be dissatisfied with our own, will always incline those who are ignorant of the matter to envy; while we must bear in mind that our boys, being far above the average in quickness and energy, will, in all probability, if we can succeed in rightly directing that energy, eventually surpass their most honest neighbours in the course of life.

This I would not attempt to hinder. If they are cleverer or more energetic, let them, when they have acquired a right direction, raise themselves to the utmost of their power. But, while on the one hand I would not attempt to repress them, I would not on the other allow their crime to be the direct cause of their elevation.

✓ We find already that with only two hours and a half of school (and that given only at such times as they cannot be at work) they improve so rapidly that my friend before mentioned observed that either these boys are the most gifted, intellectually, of their class, or that the education to which they have been subjected is attended with higher results than that carried on in our other schools.

This I confess I rejoice at. I am glad to think that those who through our means are saved from a career of crime should not only be negatived as an evil, but should eventually struggle forward to become our most useful citizens. I believe that great virtue lies in that struggle, which moulds, indeed, the future character of the man who may be able to say—‘I was led away in my youth, I was shown my error, and when shown it I laboured hard to retrieve it. I owe my direction to the school, but I owe my rise—under Providence—to myself. If I have surpassed many another man it was not because I sinned and was raised in consequence of my crime, but because when I repented I had more energy and talent than others and raised myself.’

I believe, I say, that such a feeling as this would be one great benefit of the struggle, but another and greater benefit would be that it would tend to remove the cause of envy in those less energetic in evil or good, and that it would prevent the mighty objection of allowing a rise in life to be a consequence of crime.

If, as my friend says, our boys with only so short a time, less than half of what they usually receive in an ordinary village school, can far surpass the average of village school children, I think we should not increase it, but rather turn our attention to what I mentioned as the second object to be considered in the treatment—namely, the endeavour to render permanent the good effects we have been enabled to produce, by exposing them to as little temptation as possible on their leaving us.

Here also we find a great advantage in farm labour. The greater part of the boys come from towns, and, if we taught them trades, to towns they must return. True, we should probably endeavour to place them in other towns than those from which they came: yet still, to a boy used to the vices of the streets, a large town will always have great temptation.

Now, if we place him with a farmer in the country, all his habits, all the objects he sees, remind him of his school life where he has been reformed, rather than of his former evil courses, and the broken thread is not likely to be renewed.

But I may be told that boys differ so much in their tastes and feelings that some who would make excellent artificers would never be able to give their minds to farm labour. I am aware, too, of the extraordinary results produced in the prison of Valencia, where the manufactures carried on by the prisoners, under the superintendence of Don Manuel Montesinos, set an example which we cannot but wonder that other countries do not at least make some attempt to emulate—where one-fourth of the profits of their labours are given them to spend, another fourth they are entitled to when they leave the prison, and the other half goes to the establishment, and often this is sufficient for all the expenses without any assistance from Government.

Here is, indeed, a splendid result of the manufacturing system, and one well worthy our warmest admiration: not for the sake of the cost—though that is not a thing to be entirely overlooked—but because we may nearly take it as a rule, that when men have for a considerable time worked so as to earn double their own subsistence they will have acquired habits of application and feelings of self-respect, which will take away the greater part of their temptation to return to evil courses.

Some of the rigid advocates of the punishment system might indeed object that a man should be sent to the Presidio as the consequence of his crime, and should leave it, having learned a trade, with a sum of money in his pocket equal to half the cost of his maintenance while there. I grant that this would strike us as a *prima facie* objection to the system. But when we find that in thirteen years the re-committals to the prison have not averaged one per cent. we must allow the preponderance of the tangible good over the imagined evil.

But if such results, greater than any I am aware of from the agricultural system, have arisen from manufacture, why not adopt them and throw over the farm?

Simply, I answer, because I know the one kind of establishment to be extremely easy to manage, the other I believe to be very difficult. We have as yet seen but one Don Manuel Montesinos, but there is not a county in England that cannot supply a dozen managers of farm schools if necessary.

We do not either entirely close the door to some light trades. The boys make their own clothes and mend their own shoes very tolerably. They make baskets also in wet weather for the use of the farm, and some few for sale. But this is merely done with the hope that, in their future farm service, they may be able to employ a wet day or a winter evening more profitably to themselves, their fellow servants, or their master, than they would otherwise be enabled to do.

I have here thrown together somewhat loosely my ideas on the principles of reformatory schools, not, as I before said, with any intention to say dogmatically that I am right, but in the hope that by stating them a discussion may be provoked which may bring forward sounder opinions than my own, and at any rate may lead to that interchange of sentiments which is most likely to elicit truth.

But I must yet trespass somewhat longer on your time to state what our experience has as yet shown us with regard to the practical detail.

As I have said, many schools are rising around us. Many more people are wishing for schools in their own counties; but unfortunately an idea has got abroad that the difficulty of establishing and managing them is so very great that few dare to

engage in the task. Now, if hitherto I have merely put forth opinions to be canvassed, I may here at least speak positively as to facts. I will not indeed undertake to say that our system is the best or the easiest that can be devised. I shall rejoice heartily to see a better produced; *but I will maintain ours to be both easy and effectual.*

We must remember that one great difference between school and prison—between reformation and punishment—is that in the one you are tied by strict rules and laws, in the other you must have great liberty of action. The Procrustean system of a prison, where all men's minds and bodies are supposed to be of the same height and size, must be nearly fatal to all hope of reformation.

But if, then, the management must have great liberty of action, it must be in the hands of a very small number, and this makes it all the easier to commence. I really should be inclined to say that you could hardly find a better constitution than that of our own school.

I do not come here to talk of my friend and myself, but perhaps you will allow me in a very few words to sketch the history of our own school.

About twenty years ago I became acquainted with the two persons who I believe may be considered as the originators, in our country at least, of this movement, namely, Miss Murray and Captain Brenton.

Their views at first appeared to me to be grand, but wild; and it was not till I had had some years' experience as a visiting magistrate of a large prison that I became convinced of the truth of their opinions, which my later experience has still more confirmed. For many years I longed in vain to see the experiment tried again; till some three years ago (having casually mentioned the subject to him a year or so before) Mr. Bengough offered to join me in the undertaking.

Several of the leading magistrates of the county gave us their support, advice, and assistance, but the management remained solely in our hands. I built very little more than a labourer's cottage in the middle of my own property, on a small farm of poor land, which happened to be in my own hands because it was in too bad order to let, so that, had the experiment failed at

any time, I might have given up the school, let the cottage to a labourer, and sustained no loss.

We commenced thus in our inexperience, merely because it was the most convenient plan we could adopt ; but our later experience has not shown us any way in which we could have improved it.

Now let me ask, is there any county in England in which there is not to be found a magistrate who wishes for such a school (if it be needed there), and who can find, at a fair rent, a few acres in the middle of his own property, and near his own house, where the experiment may be tried ? I shall be told that a magistrate usually has not only the duties of that office, but also the other business of a country gentleman, to attend to ; which leave him not time enough to establish such a school. I know perfectly well that this was my own case ; had it been otherwise, I should have attempted my favourite scheme long ago. But, can one aforesaid magistrate not find some one like my friend Mr. Bengough—a young man who, being heir to a good property, does not require a lucrative profession, and yet wishes for employment—who will help him ? Numbers of such men nowadays flock to chambers, and undertake the toil and drudgery of the law to keep them from idleness, and to prepare themselves to become useful country gentlemen in their day. And can none be found who, without giving up their fresh country air and exercise, without leaving altogether the engagements and pleasures of home, will give some three days a week for so extremely interesting and satisfactory, not to say so useful and honourable, an occupation as the reforming the youth of a county ?

I do not mean to say that Mr. Bengough did nothing uncommon. When he gallantly undertook the work, the chart was unknown, the perils, like all unknown things, were exaggerated. Many expected that he would be murdered, and that my henroost would be robbed. No one could say what difficulties we should have to encounter ; and there were perhaps few men who would have had the pluck and perseverance to brave the unknown seas.

But, now that the chart is laid down, now that the path has been trodden safely, can none be found to follow it ? It may

mat- or brush-making? In the former there certainly is. The industry was first introduced as a kind of work especially suited to gaols, and not interfering with free labour, because there was then none to interfere with; but free labourers saw it, coveted it, began to compete with the gaols, and end by begging that it may be taken away from the gaols and a monopoly given to them. Had the gaols applied for a monopoly it would have been much more fair. They are not working for their own profit, but for the good of the nation at large; their good is the public good, an injury to them is an injury to the public.

But again, suppose the gaols were prohibited from making mats and brushes, would the present traders be so much benefited? Assuredly not. If the trade improved but a very little, a host of other competitors would rush in, and the national cost would be raised, while the present petitioners would be no better off.

But Mr. Morley and Mr. Mundella say they don't wish to keep prisoners employed at unproductive labour, only don't let them interfere with these particular trades. What should they do, then? 'Oh, lots of things.' I can easily understand men who have never seen or thought about a gaol supposing that 'lots of things' might be found for them to do; but if they would remember that for short sentences separate cellular confinement is of the first importance they would find remarkably few industries that can be so used. I suppose Mr. Mundella was in a jocosse humour when he suggested employing short-sentenced prisoners on 'the reclamation of waste land,' but if he will tell us how to get some acres of the said waste land into a separate cell we shall be greatly obliged to him.

In truth, there are very few trades indeed which can be learned in a short time, and practised in a separate cell. It is most desirable for the national good that prisoners should work, not only for the sake of saving part of the expense, but to promote habits of industry and honest work. There are few industries on which they can be employed, while the free men can take up any other trade that will pay them better. If any need a protection from competition, it is the gaols, but we do not ask, even on account of the national benefit, for a reversal of all its free-trade principles.

You mention a report that the free mat-makers number 2,500, while those in gaol are 10,000. I do not know who made the statement, but I cannot believe it to be nearly correct. The total average number in gaol is 14,000 men and 4,000 women. Those on short sentences, and undergoing the first part of the longer sentences, who are not allowed to work at trades, generally exceed half the number, and I think it will rarely be found that half the remainder are employed on mats; but this matters little to the principle.

Finally, if it be believed by any that it is a good or a wise thing to keep one in every 1,200 of the population idle for the sake of lessening competition to the other 1,199, in the name of common sense let it be done more fairly. Instead of keeping culprits in gaol idle at the expense of the honest, let a like number of the most respectable and worthy old workmen be looked out, and let them be paid by the State to rest their old bones after long honest toil, and let the culprits work hard.

There would be some sense and some satisfaction in giving them a rest, and it would lessen competition (if that be a desirable thing) to the same extent as keeping prisoners idle.

possibly be that there is no such young man living near to the aforesaid magistrate. If it be so, will not the clergyman of the parish, or his curate, or a neighbouring clergyman, undertake the task of helping the squire in his good work? The clergy are seldom found wanting where a work of charity is to be carried on.

In some cases it may be advisable that a good neighbour, with a practical knowledge of farming, should come over occasionally and give his assistance; in some, that a hard-headed, business-like magistrate, of weight in the county, should occasionally inspect and give his advice and authority. In every county and in every case circumstances may differ somewhat; but I revert to my former assertion, that if it were known how easily such a school might be set on foot, and how satisfactory and beneficial were the results, the wants of the whole country in this respect may be easily supplied.

But then comes the question—What are the wants? and what number of schools is required? I can only answer with regard to our own county.

We have made it our object not to take all the boys we could, from whencesoever collected, but to endeavour, as far as possible, to clear our own county from the instigators and instructors in juvenile crime. Not because we hold those of other counties as aliens for whom we care not; but on the same principle that, if I were to go all over the county pulling up a weed on every man's farm, I should do next to no good; there would be plenty left everywhere for seed. But if I pull up every weed in my own farm I do a real good to myself and my neighbours, by leaving none to go to seed; and thus I show my neighbours how they may benefit their own farms.

The result, so far as we can yet see, has been satisfactory. In the town of Cheltenham, the largest in our county, and formerly the most productive in juvenile crime (though by no means dark in the statistics of general crime), there were reported by the police to be in January, 1852, about twenty boys under the age of 14 who had been once convicted, and about twenty more who, under the same age, had been twice, or three or four times convicted.

I believe that I can now say that there is not at present in

Cheltenham more than one boy under 16 who has been twice convicted.

I do not mean to take the whole merit of this to our own school, but I think we may claim sufficient of it to have acquired some knowledge of the wants of our county, and my opinion is that our present establishment, calculated for thirty boys, would not have been sufficient when we commenced, but is sufficient now, if we can find places for the boys whom we believe to be fit to leave us, and will ere long be sufficient, not only to rid our own county entirely of the disgrace (for such I cannot but hold it to be, though shared by all other counties) of imprisoning a child under 15 years of age, *sans discernement* as the French wisely consider it, and then casting him on the world without a character or the means of acquiring one—not only, I say, will our very small school rid us of this sad blot (and I believe we shall be the first county in England to boast so much), but we shall be able materially to help Bristol or some neighbouring town so as to *clear an area* as large as possible.

In many small or thinly populated counties, I believe that one school of from twenty to forty boys of 15 years of age might suffice for two or three counties where there was no large town at hand; and, so far as I can judge by my own experience, I should say that this would be found to be the most convenient size to manage.

An old farmhouse will hold this number and be infinitely better than new buildings, for the very reason that it looks more homely and plain. The more simple and unambitious your building can be, the less inducement will it hold out to the honest, and the better will it prepare the boys for the rough life and accommodation which they will afterwards find in a farmhouse.

If it be necessary to build, let it be such a building as will in appearance resemble a row of labourers' cottages, and in fact will be convertible into labourers' cottages should circumstances make it desirable to change the locality of a school.

I confess I believe that, the moment you get a building which will strike the vulgar as ornamental, you to that degree commence a decided evil. Picturesque you may have it. An old half-timbered farmhouse is a most pleasing object to the better

educated. Our own school, with its plain red-brick gables and its low-tiled roof, will, when the creepers have got up the walls, be not an objectionable-looking building to see on one's estate. But this excites no envy; no feeling among the honest poor that 'there is a grand place built for thieves while I and my honest wife and children are forced to put up with a wretched cottage.'

I confess that, while wishing every success to the race of architects in all other ways, I trust that they may find as little employment as possible in designing Reformatory schools.

With regard to the locality, I lay great stress and attribute much of the ease of our success to the fact of the school being placed in the middle of my own estate.

Had a committee purchased a piece of land, it would hardly have been possible to prevent all the neighbours taking fright at the colony of thieves established close to them; and an adverse feeling amongst the neighbours is a moral evil. For the same reason I would not have it near a village, as the less they see of their neighbours the better. At the same time, I should much wish that it should be within a reasonable distance—a quarter or half a mile—of the church, as, if it be much further, weather may occasionally prevent their attending it; and a regular habit of church-going I believe to have an important effect on the future character.

These, and such like points, however, though I mention them as worthy of consideration, must vary with circumstances. But the principal points, I think, are, that the school should be rough-looking; should begin very small at first and increase very gradually, not laying down a rule at starting that you are to have a certain number in a certain time, but increasing just as fast as you find that you can get them well under discipline, and going to just such an extent as you find suited to your convenience or the wants of your county; and thirdly, that it be managed by a country gentleman, and in the middle of his own property.

The quantity of land required we find to be about half an acre (of stiff clay) to a boy, but after it has been well dug for some years it will become lighter, and they can do more.

Our staff consists of Mr. Bengough and myself as managers.

He lives twelve miles from the school ; I about one. He comes and spends a few days with me now and then (alas ! very rarely). I, when I have an hour or two to spare (very rarely also), go over and look at the boys working, and have a chat with one or another. I should think that I devote on an average four hours a week to looking on and chatting. Such are our arduous labours.

The bailiff is a farmer used to superintending workpeople, who does not treat the boys as a warder would do, according to strict rule, for any deviation from which he is liable to be complained of to the visiting magistrates, exacting a certain amount of work, and weighing out a certain amount of food ; but he treats them exactly as experience has taught him to treat his own workpeople or his own children, exacting what labour he sees that each can do, and giving to each what food he finds to be necessary to keep him in hard-working condition. We certainly are fortunate in our bailiff. He has a mild, gentle manner, with undeniable firmness. He will readily give us his opinion, which is usually worth having ; but he will strictly obey our orders ; and, above all, his heart is in it.

A great part of the ease of our success is perhaps to be attributed to our finding so good a bailiff. But in these days, when farming cannot be carried on without a large capital, there is many a man to be found with good plain education, good practical knowledge, and good feeling, but with too small a capital to farm.

The next person is the schoolmaster, and this I confess is a difficult office to fill. We can find many schoolmasters who will take the entire command of a school, and will cram their pupils so as to gain the approbation of the most fastidious examiner. But to find a man who will teach for two hours and a half per day—so short a time that he will never be able to make them great scholars, fit to make a show of—who can, in fact, believe and feel that the converting the pests of society into good Christians is as useful and as honourable an occupation as that of giving ploughboys a correct knowledge of the position of the antarctic circle—who has, in fact, not merely a clever head, but a good heart, *and that heart in this work*—is as yet a difficult person to find. Still I believe that ere long the demand will

create a supply. Many a lad in our training schools is unable to pass the high examination required, and, not obtaining a certificate of *sufficient learning*, is disqualified for taking charge of a national school. Yet many of these may have courage, coolness, discipline, and a heart in the right place, and, though they have failed in their first intention, yet, in such a line as ours, they may possibly make not less useful, not less honoured, men than others who have taken a first-class certificate.

In addition to the bailiff and schoolmaster we have also lately taken a labourer at 1s. per week above labourer's wages, to work and superintend one of the gangs. He in all probability will in fact cost us nothing, as he will earn his wages on the land, and with thirty-six boys, with no fence round them, two superintendents are scarcely enough.

Besides this, we receive help kindly given us by many of our neighbours. Our vicar and his curate occasionally call in a class from the field, and give that instruction which a layman cannot give with the same authority.

Mr. Watts, who attends as surgeon most of the gentlemen's families in the neighbourhood, offered to be our gratuitous medical officer, on the condition that we sent for him exactly as often as if we had paid him. This we have always done, and, though we have not, thank God, had occasion to trouble him much, yet we have the comfort of knowing that we have the best skill at hand if needed, and readily given.

Mr. Wilton, in the same way, a solicitor of as high standing in Gloucester as can well be, gives us our indentures for our apprentices, and any advice which may be needed.

Mr. Thompson, the eminent drainer, had draining tools made for us, and sent us a ganger as long as we required him to teach the boys how to use them. But in truth all our neighbours help us in a way we could scarcely expect them to help paid Government officials, or even a large establishment set up by the county under an influential committee.

Another important consideration remains, namely, the destination of the boys on leaving us. It is most important that we should retain a supervision of them as long as possible. This we hope to effect by binding them apprentices to farmers. In most counties in the south of England the custom is for

farmers to hire their servants by the year, and usually to change them every year. I am aware that the system prevalent in the north of England is free from the objections which we find in the south. Yet, even in any part, I think that farmers would be found who would be glad to secure the service of one boy for five or six years, whom it would be worth their while to teach their business thoroughly at the commencement of the term, with the view of reaping the benefit by having a better labourer at last.

Our proposal is, that the farmer shall apply to us through some neighbouring gentleman, who will undertake to see the boy occasionally and report to us. The boy is then bound by indentures for, say, five years, on the following terms: if he turns out ill in any way the farmer returns him to us, and we release him from the indentures. If he goes on well the farmer gives him merely his food, lodging, and clothing for the first two years; the third year he pays to us sixpence a week, the fourth a shilling, the fifth eighteenpence a week, which is laid by for the boy. If he behaves ill before the term expires, this sum reverts to the school; if he behaves well and serves his time with credit, it is most probable that his master will gladly retain a servant whom he has trained well to his work, and he then starts in life with a good character, a good place, and some seven or eight pounds in the savings bank.

But some object that this militates against our first principles of not allowing the effects of crime to lead to a rise in life. A very little consideration would obviate this objection. We propose to give our boys no advantage which the sons of honest labourers could not get if they pleased. Were they to offer to come on the same terms, they would be chosen in preference to our boys; but, alas, they usually prefer their liberty while young to more solid advantage in after-life, and we only ask for our boys what the others would refuse if offered. I think, indeed, that it is not improbable that when the honest see the advantage of the system they may eventually follow it. I should be most thankful if it were so, but, if so, they may thank those who have shown them an improved path which they would not otherwise have known. As to the fear, which some express, of our filling the boys' labour market to the exclusion of others,

I think we need have little fear that, while emigration goes on as it has done of late, the small number of boys whom we send forth per annum can quite flood the market.

In conclusion, I can only warmly congratulate those who take an interest in the matter that the Act of the last Session, affecting young offenders, has placed the matter on such a footing that the Government allowance will, I think, be found sufficient to defray every expense of such a school beyond those of probably the first year; and I trust that, ere long, the wisdom of that Act may be proved, not only by the mere increase of the number of schools, but by a decrease of general crime, remembering that our object is not so much to benefit the individual criminal as to benefit the children of the honest neighbour whom that criminal would corrupt.

REFORMATORIES.¹

I HAD not observed your leader of the 20th inst. till my attention was called to it by the excellent letter from 'A Reformatory Governor' in your columns of Saturday. You ask for 'information from capable and impartial observers.' You will not admit my claim to the latter rank—probably not to the former; but you may allow me to lay before you certain opinions and facts which you have ample means of verifying or disproving.

With regard to your own observations, you say 'the path is very narrow between too much severity and too much laxity'—and you would therefore argue that among the great variety of men who have taken up the work many would probably err on one side or the other. You say 'the reformatory should be a place of stern, strict discipline—sufficient and regular work—and such instruction as will enable a boy to improve himself if ever he should undergo a moral reformation.'

Had these been the only guides I should have feared an immense difference in practice and results when I saw quiet country clergymen, fox-hunting squires, men of reserved, studious

¹ Letter to the editor of the *Times*, January 1858.

habits, active-minded, keen lawyers, manufacturers, and merchants, all taking up the work, with little control exercised over us to keep us in one uniform path. Yet left, as we all have been, to carry out our own plans in our own way, you will find on examination little difference in results. The reason of this I take to be that we have not placed 'stern and strict discipline' in the first, and labour in the second place, but that we have all made labour, and hard labour too, the most apparent point in our treatment; I say apparent, because religion, which can be the only true ground of reformation, must be instilled gradually when the soil is prepared for it, not made the prominent feature to the hardened scapegrace when first received. Here there is no such narrow path. As long as a boy works hard you may be sure his lot will not be envied by the son of the honest labourer, who works far less, or by the wilfully idle scamp in the streets. Possibly—nay, not very unfrequently—the scamp may be heartily sick of his scampish life, and rejoice at a sentence to hard labour with a hope of becoming honest. In such a case I do not grudge him the pleasure. But for the wilful scamp, if the reformatory be only a place of hard work, there is no fear that it should be esteemed a boon. The case of 'a child wishing to get education, good food, and a situation with a charitable old lady in the end' is, as you say, a complaint frequently brought forward by those who have much imagination and very little knowledge of facts. Had they sought for facts, they would have found that two years of harder labour than falls to the lot of honest boys—good food, because without it they could not do the work—and a moderate amount of instruction, with a 'situation' as farmer's boy or on board a merchant brig, such as any honest boy might get if he would take it, would be nearer the truth.

I fearlessly ask those who are acquainted with clay land whether thirty boys, from twelve to seventeen years old, many of them new to work, having to dig, plant, and carry home (on hand-barrows) the crops of thirty acres of stiff blue clay, besides doing the work of the house, cleaning, cooking, washing all their clothes, baking the bread (I hope we may ere long add grinding our own wheat), mending all and making most of the clothing, and filling up spare time with draining, burning

ballast, making roads, stocking up of old hedges, &c., will have much time to think or talk over their former pursuits. However, the question of importance is, not the labour performed, but the effect produced by it.

The 'Reformatory Governor' has given you a direct answer to your question whether the boys actually are reformed or not; and, though I can add my testimony in corroboration of his, I should hardly have ventured to do so had I not thought I could have added somewhat further. My own experience as to the reformation of individuals is not very dissimilar to his. Out of 102 boys who have left my school from six months to four and a half years ago, forty-nine are doing well, twenty-five are somewhat idle or unsettled, but with no suspicion hitherto of dishonesty; five have been dishonest, but have recovered themselves and now appear to be doing well; sixteen have fallen into crime and are not yet recovered; seven I have lost sight of. But this statement I lay no great stress upon. Any of the forty-nine, much more any of the twenty-five, are fallible, and may relapse at any time. Six months hence my return may be very different; yet I believe that, even if a boy does relapse for a time, the lessons he has learnt and the habits he has acquired are by no means lost, but will recur, and give him a far better chance of retrieving himself than if he had not been at a reformatory. I partly, but not entirely, agree with the 'Reformatory Governor.' He says he believes that no boys are incorrigible; I do not believe that any boys are too bad to be reformed, but I believe that many are too weak to be permanently safe. The excellent persons from whom I acquired most of my first ideas on reformation said, 'Education makes children good or bad. Nature makes them strong or weak.' If nature has given a child a strong, firm mind, it may be made very bad or very good; but, if nature has given a weak, infirm, vacillating mind, education may strengthen it a little, but never will make it firm and strong in goodness.

This will always be a cause of occasional failure in our efforts. Another cause will be our own fallibility. Every strong-minded child, I fully believe, can be directed rightly, but it by no means follows that I hit the right method, and more than half of those we receive are of the weak-minded race,

some clever and quick apparently, but deficient in resolution, some nearly approaching idiocy.

Another cause of failure the 'Reformatory Governor' alludes to is the want of a proper punishment for absconding. To cure this evil I would venture to offer two suggestions: First, that when a magistrate sentenced a boy to three months' imprisonment for absconding he should also be able to sentence him to three months' longer detention in the reformatory school for his original offence, and his month or three months' imprisonment for his absconding in addition. There could be no injustice or hardship or difficulty in this, and it would produce a strong additional effect on the minds of the boys. The second suggestion I would offer (no invention of my own, for it has been brought forward by a far abler head than mine) is that Parkhurst should be certified as a reformatory school for the few rare cases of boys absconding, or being, after long trial, too violent and bad to be fitly treated in an ordinary reformatory. I cannot see the objection to this plan, and I am sure it would have more effect than any imprisonment. By the way, imprisonment is at present a most vague term, and few people know how vague. In one prison it means association and intercourse with all the other prisoners—three prisoners shut in a cell at night, as described by Mr. Chesterton, to talk slang the night through (I fear most of the metropolitan prisons approach this type); while in others (as in most county gaols) an entire separation is maintained, and, though too much time may be given to discipline, and too little to hard work, yet at any rate no deterioration can occur.

But, sir, the business of my present letter is not to suggest new laws, but to offer evidence for your verification of past results. Now, I would ask your consideration of the system, not merely from a reformatory, but from a preventive point of view. If fever were raging in a town, the benefit of a hospital would not be bounded by the proportion of those cured to those received, but would extend to those who were saved from infection by the removal of the sick. Now, sir, the question whether reformatories really do good or no, I take it, will be satisfactorily answered if it be found that a diminution of crime takes place where they have existed for a sufficient time and in sufficient force to meet

the evil. Many schools have not existed long enough to test this. Many, like that of your excellent correspondent, have not sufficient strength to cope with the crimes of their district, as a school of fifty, of course, cannot be expected to visibly affect the enormous population of London. But where the reformatory has been long established and large enough (though far smaller than would be usually considered to be sufficient) I think, on inquiry, you will find that the results have been satisfactory. In my own county (one which for many years ranked unfavourably in juvenile crime) the great portion of the crime came from Cheltenham. In that town for several years the conviction of boys under sixteen averaged forty-five. Last year they dropped to fourteen, and, what is of more importance, the boys convicted of second offences averaged fifteen per annum, and have now dropped to three. Our county would not now fill more than one-third of my school, and I am therefore endeavouring to produce the same effect in Bristol. Mr. Wright, the manager of the Norfolk reformatory, in his letter in your pages of December 3 or 4, says: 'Within the last three months there has not been a single application for admission, and I believe there is not one boy under sentence to a reformatory in any prison of this county. We call this one kind of prevention, and not an unimportant one.'

In Liverpool I am told that the number of boys brought before the Court is diminishing, and that the cases are of a less desperate and obstinate character than heretofore.

In Birmingham the excellent stipendiary magistrate lately wrote to me,—'After a long lull, which almost made me hope that we had got rid of all the bad boys, we have had a sudden return of juveniles, not many of them, however, very bad.' This I hold to be a most hopeful statement.

In Bristol (from which, as well as from Birmingham, I have a return of all the convicted boys, with names, ages, offences, and sentences) the numbers in 1855 and 1856 were 220, while in 1857 they have, I think, not reached 70. I have now ventured to say that I will receive every boy on second conviction.

In Hampshire the manager writes to me,—'We have pretty well cleared the county and Portsmouth, and hope soon to clear Southampton.' In Surrey, including the vast population of

Southwark, Lambeth, &c., a marked decrease appears. In Berks they can receive more boys than Berks, Bucks, and Oxon can find them.

Leicester, Northampton, Essex, and Dorset are, I think, already able to help their neighbours; Worcester and Warwickshire would be more than able to clear their counties, but are at present engaged with Birmingham. They will, I doubt not, soon get the upper hand.

Now, sir, many of these are statements for which I cannot vouch on my own knowledge; but it will be easy for you, who have correspondents in every part of the world, to verify or disprove them. If they are, as I believe, generally correct, I think it will be found, though doubtless it will appear to you a very wild theory, that if the reformatories now in existence over all England (many of them too young to have produced much effect as yet), with a few more already commenced, but not yet at work, go on, as we have every reason to hope they may, with the same success that has attended the earlier ones, within two years' time the leading boy thieves may be cleared from the whole of England, with the exception of London. Fewer boys will then be corrupted, and our county reformatories will be about one-third filled from their own districts, and will be able to devote two-thirds to help Middlesex. This last will be a stiff job; but a Middlesex reformatory is at last commenced, and I suppose will some time or other be finished. Its own Act will not allow it to do much to diminish general crime, as it prevents their receiving boys above 14 years of age, and the principal leaders of crime are between 14 and 16. But they can receive the younger ones, and we can take the elder; and, judging from the crime of the Surrey side (of which I know something), and comparing the returns given in the very valuable 'Judicial Statistics,' I have little doubt that three years more may suffice to break up the organised gangs of boy thieves, and to clear out the leaders in crime under 16, even from London.

All this, you will probably say, is looking too far ahead; yet what has been done with very small means in one county, and what is now in course of being done in Bristol, Birmingham, and Liverpool, with larger means, may be done with proportionate means over a still larger area.

I have little doubt that, if it pleases God to help the work as He has hitherto done, five years (two for the country and three more for London) would see one-half of our reformatories given up for want of inmates (as my own would be now, had I only my own county to look to), were it not that I trust that a Bill, probably about to be brought in this year by Lord Carnarvon, will enable us slowly, quietly, unostentatiously, and inexpensively, to deal with lads from 16 to 21 on nearly the same system as we have done, and are doing, with those under 16. If you should find on inquiry that the assumed facts I have referred you to are generally true, it may lead you to the conclusion that reformatories are not without their value, and that Lord Carnarvon's proposed slight and unassuming, yet fully sufficient, measure may not be unworthy your advocacy.

THE REFORMATORY SYSTEM.¹

THE Reformatory system has spread so fast and far that much is likely to be said and thought upon it when the total cost of the establishments comes to be laid before Parliament. A lumping sum to be paid is always *prima facie* a disagreeable thing, and we naturally demur at the payment till we see, either that it is a necessary evil, or that it is only an old foe with a new face—a payment made under a new name, instead of some other form we are accustomed to. It is well also to consider how far a system which has been adopted within, we may say, three years in every part of England may have been sometimes used without due regard to necessity, or to a careful comparison of the cost with the results. Forgive me if I again go over ground which I have travelled before. It is important in arguing a question that the principles should be fairly understood.

In estimating the value of the reformation of a criminal, some people are apt to cut the matter short by saying that, as the value of a single human soul is beyond all price, so we

¹ Letter to the editor of the *Gloucestershire Chronicle*, 1858.

ought not to calculate the cost of reformation, or grudge any expense which may be supposed to obtain it.

From this doctrine I must strongly dissent. In the first place I dislike the assumption that *we reform* this or that person. Could we with our own money purchase the saving of a soul, the case would be far different. As it is, we know not who will be saved or lost with or without our efforts. We must only *strive to the utmost of our power and skill* to make the talents with which we are entrusted, whether of mind, body, position, or money, bring as high a rate of interest as possible. But, if this be so with the money which we call our own, how much more carefully ought we to deal with that which we obtain either privately or publicly from others!

Our aim, as I take it, ought to be to husband to the utmost the means entrusted to us, not so much with the definite view of saving this or that particular person, as in the hope that by directing and assisting in a right course, and by lessening the temptation to as many as possible, we may give to as many as *possible* a chance of reforming themselves.

Our object, then, if I am right, should be not merely to improve to the highest degree this or that individual under our care, or to be able to point hereafter to some few to whom at great cost we have given great advantages, but rather to show results which lead us to hope that such means as we have had at our disposal have been so laid out as to produce the greatest possible *diminution of crime*. Were a hospital to boast greatly of its having cured 99 per cent. of its patients, and it were proved on inquiry that the cases received were of so trifling a nature that 90 per cent. would probably have recovered without its treatment, the governors would be fairly accused of misapplying the funds. But, were it proved that wherever a hospital was established sickness diminished throughout the town, people would be satisfied.

I confess I am much inclined to fear that some such unnecessary expenditure has arisen in all our Reformatory Schools; I feel sure that it has in my own. The question is, what rule can be laid down to prevent the continuance of the abuse? Of one thing I am quite certain, that no *general rule* on the subject can be applied to the whole of England without absolutely

stultifying itself. The requirements of town and country, of manufacturing and agricultural districts, of counties where Reformatory work has been long in action, and of those where it has only been newly tried, all differ so widely that any general rule made to suit one class must be unjust to others. Yet I am strongly disposed to think that each Reformatory district (if I may use such a term) might from time to time lay down such *general rules* (not rules without exception) for the guidance of its own magistrates as might make the same expenditure produce shortly a far larger saving in other matters. Will you forgive me if I offer some suggestions for the calculation of the requirements of each district? My experience in the matter, though perhaps as varied as that of most men, is far too small to enable me to offer more than *suggestions*.

We must remember that the cost of each conviction sent to a reformatory is far higher than that of each conviction sent to a gaol; because, although the average cost in all prisons of England is nearly 26*l.* 10*s.* per head per annum, while that of reformatories is probably below 20*l.*, yet the detention in the one would average two months and cost (say) 4*l.* 5*s.*, while in the other it would average 18 months and cost 30*l.* The period necessary for reformatory detention would, however, vary so greatly with the circumstances of the county and those of the management that no general result can be obtained. On the other hand, if a boy sent to prison be again and again taken up, and be finally sent for a long term to one of our convict settlements, he will cost far more than if successfully sent to a reformatory. We must endeavour then to find the point at which boys are likely, without such treatment, to become confirmed in crime, and to spread the infection by corrupting others.

In ascertaining this point we may gain much aid by an examination of the convictions of previous years in the district in question; and to show how widely different are the circumstances of different places, and how iniquitous any universal rule would be, I may state that, whereas in the very large towns, such as Birmingham, Liverpool, and Manchester, out of 100 boys committed a first time from 20 to 25 are recommitted before they arrive at 16, and in London such re-convictions amount to nearly 50 per cent., in most counties, including moderate

sized towns, as Cheltenham, Nottingham, Norwich, &c., they are about 12 per cent.; and in rural districts, apart from such country towns, they are barely 5 per cent.: therefore it would be impossible to lay down a rule which should suit all places. Yet a few magistrates, by examining the gaol register, could gain approximate results, only remembering to include as an element in the calculation whether it is the general custom of the district, as I have known in some, for every boy to be committed to prison against whom a breach of the law could be proved, even in the absence of suspicion of general bad character, or whether it be the *custom* to rarely commit a boy to prison at all on a first offence. Unless these circumstances are well considered, they render all statistical calculations based upon them utterly worthless.

Although the law gives to each manager of a reformatory the power to accept or reject such boys as may be there committed, yet it is an invidious task for us to sit in judgment on the decisions of magistrates at a distance, neither does the small information which we possess on the merits of each peculiar case enable us to do so; therefore we are often obliged to receive and to spend 20*l.* per annum upon a boy for whom a single week's imprisonment, in a well-ordered separate prison, would probably have sufficed. I confess that I have often felt positively ashamed to send in a bill for the maintenance of certain boys, whom I believed indeed that our system was benefiting, but doing so at a cost which otherwise laid out might have afforded equal advantages to ten times the number. The Act of last session gives great facilities for the useful action of magistrates in this direction. Formerly charitable individuals subscribed money more or less for the benefit of the poor of their own county, and if they had a school larger than sufficed for their necessities they were glad, and had some right to give the advantage to those in whom they were interested, even if it was done somewhat extravagantly; and perhaps they hardly considered that, for every 2*s.* or 3*s.* a week that they gave, they asked the Treasury for 7*s.* Now, however, when most counties are raising money under the Act of last session (and the rest will probably follow their example) to pay a weekly sum towards the maintenance of their own criminals, in whatever reformatory they may be

sent to, I cannot but hope that this point will receive due attention. Unfortunately, indeed, one clause in this Act has nearly nullified the rest. Clause VI. enacts that in every reformatory assisted by a grant of money from the county rates any child therein confined may be visited by the minister of his own religious persuasion. Our schools happily hitherto have been conducted on the only plan which can secure freedom in religious teaching, viz., that boys of the Church of England have been sent to schools of their own persuasion, Protestant Dissenters to theirs, Roman Catholics to theirs, and thus each has been taught without reserve his own creed. The careful continuance of this system will, I think, prevent any great evil from arising in practice, although I cannot wonder that some most valuable and influential reformatories refuse to receive any boys with payments under this Act. Those who voted for the clause doubtless looked to a general principle, without the slightest knowledge of the facts of the case; they forgot that the boys' fathers are not the most exemplary of mankind; that they are frequently anything but grateful for having their children brought up honestly, especially if they are called on to pay 2s. 6d. a week for it; that if the said parents choose to turn (or say that they turn) from any one form of faith to any other it will enable them to introduce a Church of England clergyman into a Roman Catholic reformatory, a clergyman of the latter persuasion into a Dissenting school, or a Mormonite preacher into any school, as often as ever some bad parent of a bad boy chooses to annoy one. I do not for myself dread this evil, because I receive none who do not assent to Church of England doctrines; and if any parents afterwards chose to dissent from them I should simply refuse obedience to the clause, and I doubt if any tribunal in England would find fault with me for doing so. But there is no doubt that if the said Clause VI. be not itself absolutely nugatory it must render the rest of the Act so.

But there are other points requiring consideration, if we are to watch carefully to make the most of the funds entrusted to us. Let me speak of the length of the detention. The Act of last session gives one clause which makes it valuable (even if Clause VI. should nullify all the rest). Clause XIII. enables

managers of reformatories to allow a boy to go to a place of service on trial when half his term is completed. This enables us practically to let a boy go, provided we have good hopes of him, with only half his term of detention, and therefore only half his proposed expense to the country. I am aware that many will exclaim against this practice. They tell me that a boy ought to be kept his full term, because—in short, because he ought—and he will be sure to fall into crime again if he is not. I sometimes ask what evidence they have of this fact, and I am usually told that ‘it is so, because everybody knows it.’ I can, of course, bring little weight against such profound reasoning; but I know that 121 boys have left my school since its commencement, the latest of them more than six months ago (some more than five years ago), and, as yet, I think that only 18 have been since convicted of any breach of the law. Of those, *four* were boys who absconded or were removed by friends (before the law gave us power to detain them) when they had been in the school from 15 days to 5 months; and *three* more, though they have been convicted, are now and for some time have been apparently doing well. Of the whole number, viz., 121, I have not kept one in my reformatory for three years, and I do not think that I have detained 10 of them for two years, nor 50 of them for 18 months. Had I kept them all three years, would the result have been so much better than it has been as to repay the 3,630*l.* which such additional detention would have cost? I can safely add that mine have not been cases selected as *hopeful*. Some, it is true, whom I received at first, were unconvicted; but since the first year my *endeavour* has always been to prevent any boys from being sent to me who were not bad enough to require reformatory treatment. If this be so, it is surely worth while to inquire whether we ought to expend the 20*l.* per annum on a boy for a longer time than is proved to be enough to give him a fair chance of doing well. We can, it is true, benefit the individual more by keeping him for the five years; but are we justified in spending the 20*l.* per annum for such a time to benefit the individual?

Another point for consideration appears to me to be the age at which to admit them to reformatories. And this question is closely connected with the last, because if received very young

they must be kept very long. Three out of four of those who fall back into crime do so more from weakness and instability of character than from determined intention to do wrong; and the younger they are discharged the weaker they are likely to be. A boy received at eleven years old can hardly be let go under fourteen. Then are we fairly entitled to call upon the country to pay 60*l.* for the reformation of a boy at an age when formation of his character is the thing needed? On the first opening of a reformatory it is usual, and may be wise, to refuse to receive boys above fourteen. When Mr. Bengough and I first opened our school we limited it to thirteen. It is wise to allow both manager and master to commence their work with the least difficult subjects; but when two years are past, and the boys first received have grown to sixteen, if the managers cannot receive all from fourteen to sixteen they will leave much good undone. So far as my own experience has gone (I speak of Gloucestershire and Bristol, with some knowledge of Birmingham and Liverpool, and a little of London), I feel convinced that the receiving boys under fourteen will do great good to the individuals received, but will tend but little towards our real object, the diminution of general crime, if compared with the receiving of boys from fourteen to sixteen. So far as I have yet seen, the boys below fourteen are usually followers and tools, or are merely boys with (for the time) an incorrigible propensity to steal trifles. With nine out of every ten I believe that a week's imprisonment in a well-ordered separate prison would be amply sufficient (a month's imprisonment would and does 'familiarise them with the cage,' and thus does away with its good effects). Some cases there are of precocious iniquity which are worth any length of time or cost of money to reform, but these are so rare that—exclusive of towns of 100,000 population—I doubt if each county would find one such case in five years.

The third point to which I would beg attention is that of emigration. I am inclined to believe that *in some places* it will be found essential to send abroad many of our cleverest and ablest lads till the public has the courage to recover from the sudden fright it was thrown into by the so-called *ticket-of-leave men*, and regain that propriety and good sense it usually manifests when left to itself. As I say, *in some places* (London and

the largest towns) I fear it is essential. Yet, I cannot hold that it is *always so*, seeing that my own school, with its many imperfections, which I, probably from knowing more thoroughly than others, feel even more strongly than they *see*, can as yet show above eighty per cent. doing well in England, when only three out of the whole number have emigrated, and those at the expense of their own friends. The cost of sending a boy to our colonies, amounting to 10*l.* or 11*l.*, will, in some cases, be well repaid; but should be, whether paid by subscriptions or by county rate, carefully considered beforehand.

But if, in a recent and somewhat hastily adopted movement, there be some points which require consideration, where has there ever been a movement which, in its commencement, has given so good grounds for hope? We see that wherever it has been tried with means proportioned to the end, juvenile crime has been greatly lowered. In this county, where it has been longest tried, it has fallen from forty-eight per annum to fourteen; in Bristol, from 110 per annum to sixty-two; in Liverpool, from 1,153 to 855; in Norfolk, from an apparently unmanageable number to a quantity that scarcely keeps the reformatory alive. In Hants, Berks, and wherever they have been tried without overwhelming odds against them, the reformatories have reduced the amount of general crime to a degree which I (who was always laughed at for my ultra-sanguine hopes) should some years ago have thought impossible. They will yet, please God, extend their operations much farther. Sundry gentlemen who have seen a reformatory, or have the least notion of its effects, say 'that they know perfectly well that no person beyond sixteen can be reformed' (without regarding their own statistics, which show them that three out of four are reformed, so far as breaches of the law are concerned, between sixteen and twenty-five). Also many members of Parliament say that they 'are tired of the subject, and they don't like to be bored.' I feel strongly for both classes, and am sorry to hurt either; nevertheless, I believe that when John Bull sees, as he will do (though as usual rather late), a chance of saving his pocket from the enormous present expense of gaols, and, what is of infinitely more importance to him, of saving his children from the temptation to become regular criminals, saying nothing of saving the shops

and the throats of those of his children who happen to be honest, I have no fear but that, even at the expense of a certain amount of boring to some worthy individuals, the work will go on and prosper; and without doubt, ere two years are past, regular juvenile crime may be extirpated in the provinces, and three years more may do it in London—reducing proportionately the heavy expense of our gaols. When regular adult crime may be much diminished depends on our legislators.

A FEW THINGS SUGGESTED FOR CONSIDERATION.¹

IN proposing some matters for the consideration of reformatory managers, and giving my own present ideas upon them, I trust it will be understood that I do not intend dogmatically to say that I am right, or to limit discussion to these subjects; but simply to throw out suggestions for any to agree with or differ from, in the hope that truth may be elicited.

I therefore proceed to suggest some points which appear to me to require our consideration, in the hope to hear them canvassed by others. Of course the opinion of the majority will not bind the minority, and any one manager or committee will be as free to act as if no such questions had been discussed. Of course, also, I do not suggest that any rule can be laid down which will apply to all cases, but I cannot but believe that some nearer approximation to rules of action may be suggested, which, without binding any individual, may serve to let us know each other's opinions and mode of action.

First. What class of boys should be received into reformatories?

My general opinion on this point is well known—that as a rule (with many exceptions) boys should not be received on first convictions.

My first reason for this I fairly say is on the score of expense, for I hold that it is unquestionably our duty as magistrates and reformatory managers to take our best care that the portion of the national funds entrusted to us for the national benefit be not misapplied, that a large amount should not be spent when

¹ October 1, 1861.

a small amount will do the work, and that money intended for the public benefit should not be diverted to private convenience. In short, that we should deal with public money as we would with our own. If, then, ten days' imprisonment cost 15s. and two years' reformatory cost 40l., and if the 15s. remedy practically does suffice, even in three cases out of four, nay, even in one out of two, to prevent a boy from continuing to thief—I say we ought to try the 15s. remedy before the 40l.

But our existence as a system depends on a prudent use of our trust. Our cost is already heavy, but were all the 6,765 boys now annually committed sent to reformatories, and kept there five years (of course I put such a case merely as the *reductio ad absurdum*), the cost would be 675,500l. per annum.

Still, the rule of receiving only second convictions is too stiff, and requires modification. Can a scale of crime be suggested which would enable each reformatory to describe the kind of cases which they think it right to receive? I subjoin a very rough sketch for consideration and amendment:—

a. A boy stealing fruit, bread, cake, &c., for his own immediate eating.

b. Stealing some small article which has lain in his way without his apparently going to seek for it, and converting it to his own use—not selling it.

c. Stealing, as in either of the above cases, and selling it.

d. Stealing as above, from his master.

e. Stealing, where there is distinct reason to think that he went out of his way to find the article for the purpose of stealing it.

f. Ditto, where there is distinct reason to think that he joined with others in planning the theft.

I should suggest that in all the above cases a boy should not be received on a first conviction unless—first, he were a boy of 15 (?) years old (so that he would not be caught again before 16). In this case it should be explained how or why his character is bad. He has not been previously convicted, but he may have been suspected or known to have stolen—but let off. If it be only that he is troublesome to the schoolmistress, given to trespass, or to quarrel, or the like, the reformatory is not the proper remedy.

Secondly. Certain cases which may not always betoken great criminal intention, but which are dangerous to the public, or highly offensive to morality—as attempts at murder, or rape, or arson, or putting stones on a railway.

But such cases as *a*, *b*, and *c*, should hardly be sent to a reformatory before a third offence under the age of fourteen, or a second offence above that age.

Even such cases as housebreaking (if by a child of twelve, picking the lead of a cottage window with its thumb-nail and stealing a bit of bread), or highway robbery (where it consists in knocking some halfpence out of a child's hand in the village street), ought not to be treated as quite such serious offences as the *names* housebreaking and robbery may imply.

A second subject for consideration might be, How to treat boys who abscond.

There can be no doubt that the best possible sentence (both for deterring and reforming) is that of lengthening the term of detention.

The authorities of the Home Office have declared that magistrates have power under the present Acts to re-convict, and I for my own part am always ready to act upon the authority of the Home Office when convenient; but many magistrates have great doubts on the matter, and if another Act were passed, it would be highly desirable to add a clause to end such doubts, and to enable the term to be lengthened, even where the boy is past sixteen.

Thirdly. How long ought boys generally to be kept in reformatories?

We must bear in mind that Government is complaining of the cost of reformatories, and the cost depends mainly on the length of detention. The cost, when compared with that of prisons, is certainly large, if calculated per head. In the year ending Michaelmas, 1860, there were 8,029 boys and girls committed to prisons, of whom 1,098 were passed on to reformatories, or little more than one-eighth. There were 100,614 persons committed to prison in that year, of whom the 1,098 of course made little more than $\frac{1}{100}$; yet the cost of reformatories, exclusive of parents' pay, is 46,735*l.*, while the total cost of prisons is 410,417*l.*

This suffices to show that reformatories should only be used

for serious cases, and that all fair means should be taken to make the detention as brief as will be efficient.

I believe that the clause enabling us to grant licences when half the time is past was one of the most valuable powers entrusted to us.

I presume it will be allowed that the object to be achieved is that of keeping a boy just for such a time as will enable us to place him in work, with a good probability of his continuing honest, and of not keeping him at the expense of the country longer than is necessary.

I presume it will be also allowed that we, when we have a boy for a year or more in our hands and under our watch and care, *may* be able to guess pretty fairly how long it is necessary for this purpose to retain him; but I presume it will be equally self-evident that the magistrate or judge who committed him cannot possibly, by any amount of human skill or talent, divine for what time it will be necessary to retain him.

I imagine, also, that it is self-evident that the time of greatest trial for a boy is that of leaving the reformatory and again mixing with the world, and that the more hold we can keep upon him after leaving us the sooner we may venture to let him go.

Therefore, as the keep in the reformatory costs 20*l.* per annum and the surveillance of the police *nil*, every argument is in favour of increasing the latter and decreasing the former; and if a clause could be introduced to enable us to grant licences (if necessary, under closer inspection) at the end of one year, most magistrates would then convict for five years, and we might often let them go at the end of one or two years, retaining a watch upon and a legal hold over them for the remainder of the sentence.

The fourth subject for discussion would follow directly from this, namely,

How can we keep a watch on them after they leave us?

We have been told by some Government authorities, and by some newspapers, that the police are not to be trusted, and will 'hunt a repentant thief back into crime,' if they know who he is. I can only say I have had dealings with police in many parts of England, and have nearly always found them ready to

show every care and attention to any boys *who were fairly put under their charge*.

I send a 'suggested order' herewith, which has been most readily adopted by our own police, and which I believe, if wished, would be readily adopted by every police in England.

If more were wished, I should not hesitate to ask the Bishop's permission to address a circular to the clergy, requesting their supervision. I once did this on a somewhat similar occasion, and received every help and kindness.

But forgive my suggesting another help we might obtain. *We* are excellent managers, but we all want a little keeping up to our work (I pre-eminently so—but all more or less), and we are inclined not to inquire so closely into the after lives of our boys as we ought to do.

We ought to remember that upon this watch upon our boys for many years after they leave us depends all *real proof* of our utility (so far as what I always consider our *second* object goes—viz.: the reformation of the boys sent to us). A reformatory may be clean, orderly, exact to its rules, or the like, and yet fail in its ultimate object; but if a reformatory receives *only bad* boys (the worse the better), and a fair proportion of them turn out well and go on well for years after, we may be pretty sure that it has succeeded.

Now in order that we may be somewhat kept up to the mark, we have an Inspector set over us, and to him we make a return each year of the present state of all the boys who have left us in former years. Would it not be quite possible for him, if we were to take some opportunity of urging him to do so, to employ some experienced person, who has been in the habit of corresponding with the police throughout England, to test—if only a certain proportion of the boys mentioned in our returns?

I believe that the result of such a test would be both a help and a credit to us.

The fifth subject of inquiry might be, in my opinion, the most important of all. It has pleased God to give a success to our work so far beyond what the most sanguine of us had ever hoped for that, were second convictions only now received, our reformatories would be half empty. May not this afford us an opportunity of trying the experiment whether the same effect

may not be produced on the adult criminals as on the juveniles?

Remember that the reformation of the individuals has not been our aim, nor is it that which has lowered crime. It has been the preventing those who had commenced from growing worse, and *preventing* the innocent from being corrupted by the guilty. This may be as well effected amongst men as amongst boys.

The means, in my opinion, must be—not the enabling magistrates to commit to an adult reformatory, because it is utterly impossible that magistrates, unless they accidentally happen to know a man, can judge whether he is likely to be fit for a reformatory.

But if my reformatory, for instance, can be admitted as a prison under the Gaol Acts, with power for the Secretary of State to remove prisoners to it from the county prison, I might then select the prisoners whereon to make the experiment (of course with their consent, or rather on their petition); and if I found I could not manage them, I should request the Secretary of State to remove them back to prison.

It may be said that I am asking for large powers and favourable circumstances of selection. I am so, but I am not asking for a sixpence of public or private money, or for anything which can cause expense or danger. If I succeed, I keep the men just for the time they would remain in prison and at the same expense, but I send them out accustomed to hard work and with time and opportunity to find work. If I fail, the Secretary of State at any moment removes the men back to prison. The prisoners are none the worse for the trial—the country is at no cost—the public is in no way hurt. But if I succeed, magistrates may commit to longer terms on second convictions with a view to the men being removed, and if we then procure such a power for granting licences as we now possess for boys, we shall have gained, without cost or risk, what we may consider nearly a perfect system of the treatment of crime, viz.—a *very* short imprisonment for first convictions; a long imprisonment—commuted on good conduct to a reformatory and licence under surveillance—for a second offence; and for a third conviction, *nearly* such a system of penal servitude as Captain Crofton has introduced in Ireland, only, I trust, with much greater power

of licensing at an earlier period, so as to shorten wherever we can that portion of the system in which a man does little and costs much ; and to lengthen, where we can, that portion during which a man costs nothing to the country, supports himself, lays a safe foundation whereon to build a new character, but is watched and restrained should he attempt to go wrong.

Now I have led the way in making some *suggestions* for our consideration. Will no other managers send round a paper to expose my fallacies or make new suggestions ?

MEETING OF REFORMATORY MANAGERS AT HARDWICKE COURT.¹

I HAVE received several letters from different friends on the subject of our late meeting at Hardwicke, showing that some, at least, have not understood the facts of the case. Allow me to send in print, as I have not eyes or time to write to all, the version which I believe to be true.

Wishing to bring the reformatory managers into acquaintance and communion with each other, I in 1855 asked them to meet at my house. They spent a few days here together, and I believe that the interchange of ideas which then took place, and the acquaintance, not to say friendship, which arose between many of those of distant counties, tended greatly to extend and correct our views. At this meeting—by the wish of the majority of the party (not by my desire)—the Reformatory Union was founded, which has since developed into the vast Social Science Association, at which a great number of very eloquent speeches have been made, and which no doubt has done much to inform the public mind, but which is entirely useless as a meeting for calm discussion among reformatory managers. Now in such a work as ours, managed by persons so widely separated, it is most important that there should be occasional meetings and interchange of opinions. Several plans were tried for effecting this without success, and, until some such should be found, I endeavoured in 1858, and again in 1861, to collect at least as many as my house could receive.

¹ December 2, 1861.

I should think it hardly necessary for me to add that I did not invite my friends here for the purpose of imposing certain opinions of my own upon them against their will; but that they were free to discuss precisely what points they pleased, and that not my opinion, but the opinion of the majority was taken. I certainly did, however, on the last occasion suggest certain subjects, as thinking that they required attention; and knowing that on these the opinions and practice of managers were widely dissimilar, I invited, as I say, the managers of as many reformatories as I could receive in my house, with the addition of certain gentlemen who would be able to give us some information on the subject—to which most of us are looking forward as merely the second portion of our one work—viz. an improved treatment of adults. As I have said, I was unable to invite *all* the reformatory managers for lack of room, but on looking over the list of Boys' Reformatories, I find that out of the thirty-six there were only seven uninvited. Seventeen reformatory managers were present, I believe; a larger number than have ever been brought together before. Fifteen were unable to accept, or having accepted were prevented coming; (on three occasions, finding that one manager of a reformatory was engaged, I invited another in his place); and seven only I was unable to invite, for want of room. It was, therefore, in no degree a small party of men packed together to carry peculiar views, but included most of the men of largest experience, and let me add, most of those who have studied the subject not only in their own schools, but by frequent communication with all the others throughout the country.

The greater part of our resolutions are agreed to by all, but two have been objected to by many who did not hear the discussions. Suffer me to give my own reasons for believing them to be just.

The first has been the most strongly objected to by some correspondents, viz. the suggesting to the Treasury to refuse payment for boys under fourteen on first conviction. I must say at any rate that I rejoice to see this question brought fairly under discussion. Some regret that 'our hitherto perfect unanimity should be disturbed.' I cannot feel this. There has for very long existed a difference in practice and opinion

between our different managers, and I cannot but believe that a real discussion of the difference will be far more useful than an apparent but unreal unanimity.

I think some managers have not fairly considered the circumstances in which we stand with regard to expense. Some, indeed, are inclined to say that when we are doing good the cost need not be counted. Yet I am sure, if they will only consider the fact that it is other people's money not our own that we are spending, they will allow that its expenditure should be watched in a careful, though not niggardly spirit. Now the first fact which strikes us requires explanation, viz. that of the following table:—

Year	Boys convicted	Sent to Reformatories	Treasury Payments
1856	11,808	534	£ —
1857	10,822	960	—
1858	8,837	700	43,846
1859	7,582	745	51,681
1860	6,765	886	59,230

This table, taken from the judicial statistics and Mr. S. Turner's report, shows most satisfactorily the great good which reformatories have effected, by year after year diminishing our crime, but it also rather unhappily shows that the more our crime diminishes the more it costs. I can find no account of the expenses of 1856 or 1857, but Mr. Sydney Turner gives the cost of the three succeeding years. In 1858, 700 boys were sent to reformatories. The cost of reformatories in that year was 43,846*l.*, and the effect of this clearing off of criminals was a diminution of 1,255 in the numbers convicted next year. In 1859, out of the decreased number of convictions, 745 were committed to reformatories, and the cost that year was 51,681*l.*, and the reduction of the following year was 817. In 1860, 886 boys were sent to reformatories. The cost to Government rose to 59,230*l.*, and I fear that the reduction in crime will be less in '61 than in '60.

If to comfort ourselves we look abroad, we find that in France in 1837 there were 1,334 *jeunes détenus*; and in 1854 the numbers had increased to 9,364! Since then they have, I

believe, remained nearly stationary. In 1859 I find there were 9,335.

But some gentlemen tell us, as my excellent friend the Recorder of Birmingham said at Bristol the other day, that reformatories are found to be cheaper in the end than prisons, and therefore the more is spent upon them the more we must save by them. I am sure he will forgive my saying that this is not a very safe argument.

In 1856, 11,808 boys were convicted; in 1860, 6,765, or a diminution of 5,043. I have not the data before me for drawing an exact calculation, but I think we shall go to the full extent if we allow one month in gaol for each boy convicted under the old system, and, as by far the greater part are summary convictions, 20s. each for costs. This will be 3*l.* for each conviction, or a saving to the State of 15,129*l.* at a cost of 59,230*l.*

But, say some, the amount which an experienced thief will steal is enormous, and will far overbalance the difference in the expense of convictions. This doubtless is so in a very few cases, but if every boy be, as we propose, sent to a reformatory on his second conviction, none can gain sufficient experience to steal very largely. But, it is said, if a boy is to be sent on his second conviction, why not send him on his first? Simply because only a very small proportion of those convicted a first time and sent to prison are again brought before a magistrate. This proportion differs so much in different localities that it is difficult to lay down a rule; but there is an easy method of testing it which any one who wishes to know the truth may adopt in his own county or town, viz. that of counting by his own prison register the number of boys convicted, say in two years, and seeing what proportion of them are second convictions. This may not be exact, but it must be very near the average. I think if any do so, they will find still (as I did when I made the same calculation some years ago) that in very large towns, and very dense populations, there may be nearly one-half, though I greatly doubt it; and I suspect that one-quarter would be more probable, but in the average counties of England one-eighth will be nearer the mark.

Some indeed say that the previous convictions are not known because they have taken place in other counties. Sir William

Miles was lately quoted at Bristol as saying that 'a great number of these juveniles are vagrants set on by other vagrants who may have been convicted a dozen times.' Far be it from me to dispute the authority of a chairman in his own county, but Somersetshire seems to be a most extraordinary exception to the general rule, for I would almost undertake to say that, if the prison register of nearly¹ any county in England were examined, not one boy in ten would be found who did not belong either to some parish in or nearly adjoining to the county, or whose whole birth, parentage, and education there was any difficulty in tracing.

Now if this be so—if, as I believe, only about one convicted boy in eight practically does come again before the magistrate—is it quite so easy to pick out which of the eight it will be? It seems to be thought by some that an unpaid magistrate may be very likely indeed to err. A chairman of quarter sessions would not often do so, a stipendiary magistrate very rarely, but a recorder or a judge must be very nearly infallible. Yet, with all due deference to very high authority, I doubt whether perpetual sitting, day after day, listening to evidence as to whether this or that boy is or is not guilty, does really give such profound knowledge of the secret motives of the boy's own heart as will enable even the greatest human wisdom to predict with certainty the future career of each. I have now had considerably above 200 boys through my hands. I have, with very few exceptions, known a good deal about the parents or relatives of all of them, and I have never been able to draw any approach to a rule which should enable me to say whether the first conviction will be the last or not. Of course I do not compare myself for a moment with the talent of a judge or recorder or stipendiary magistrate; but nearly ten years spent in studying the characters of boys, each from one to three years under my care, might be almost as good as great talent without ever

¹ I say NEARLY any county. I am aware of two that I should expect to be exceptions, viz. Glamorganshire and Durham, where the population has increased enormously in the last few years, and, of course, increased by the immigration of the most mobile and the least steady of the other counties in England. Somerset MAY be a third case, though I should not have expected it—and there are probably other exceptions, but as a GENERAL rule I think the above is true.

having the opportunity of watching the course of a single boy.

But there is yet another argument. The deterrent effect is thought by some to be useless, but the generality are inclined to trust to it alone. I by no means agree with the latter opinion, but I have no sort of doubt that it is a most powerful agent in the prevention of crime. Now, though many gentlemen who have heard of reformatories, but never studied their effects, will hardly believe it, there is no punishment that boys dread so much as a reformatory, and certainly none that the boy's parents dread so much if they are really made to pay as much as they can. But to make any punishment truly deterrent, it must be certain and clear to the comprehension of the person to be deterred. If a boy only knows that he will be sent to a reformatory if the magistrate considers, upon a full examination and consideration of the whole circumstances, that the case is of a sufficiently flagrant character, you may depend upon it he will never think himself bad enough to merit it, and therefore will be but little deterred. But if he knows that the first time he gets ten days and the next three years, there is no mistake or misunderstanding about the matter. If he has been caught once, he and his parents know full well that the very next time is three years for him and three years' pay for them. I believe this argument to be one which has extreme weight as a deterrent.

But another charge is made against those who take our views (no small party of two or three, remember, but the larger part of the reformatory managers of England). It is said we have relinquished the first principles of the reformatory system. It is quite true—we have done so. When I first began to think of and to work, as well as I then could, for this measure (just twenty-five years ago last August), I confess that my only idea was that of doing some good to a certain number of individuals. But, long ere Mr. Bengough commenced the work here, I had seen that a higher object was within our reach, namely, by taking only the leaders in crime, to prevent a far larger number from being tempted to commence such a course. But when I applied for and obtained Government aid (some time before the Reformatory Act was passed), I felt still more strongly that, however I might have given my own and my friends' money for

the purpose of benefiting certain boys who had done wrong, we had no right to use the public money for this purpose ; to take, in fact, 40,000*l.* or 60,000*l.* a year from the honest for the purpose of benefiting the dishonest, at a cost of from 40*l.* to 100*l.* each.

I believe that the only object for which we can fairly claim public assistance is, the benefit done to the honest public by the diminution of crime, the protecting property from being stolen, and, far more, the protecting the children of the poor from the temptation of contamination. If while doing this we can here and there benefit an individual, so much the better, but the public not the private advantage must be our first object.

Crimes may be fairly divided into two classes, as arising from habit or from impulse. Those of the latter sort we can have little hope of preventing. So long as human nature remains what it is, there will and must be occasional offences ; but habitual crimes may be annihilated with ease and certainty, and it is this prevention of habitual crime, not merely the reformation of a few individuals, which we take as our object. That we have by God's help been successful in this work is proved by the fact that not only the boys whom we have received have generally gone on honestly after they have left us, but that the number of criminals has decreased in the country by more than double the number of those whom we have received. If by taking one boy into a reformatory we simply reform him, I cannot say that we should be justified in expending so large a sum as is necessary ; but if by removing his bad example we prevent two or three others from following in his steps, we do a benefit to the public which is well worth the cost.¹

But if the public advantage be our object, and if unnecessary expense is to be avoided, we should take all possible care to

¹ I suppose I ought to be flattered at finding myself considered by some as the propounder of this quite new theory. At least some few, very few, reformatory managers seem to consider it as a novelty. Yet if they would only look to the Second Report on Reformatories, at p. 12, they will find, in far better language than mine—

‘ But I have long felt that the individual reformation and rescue of the offender is a matter rather of individual religious charity than of social policy

receive only such as are likely to be a *public* evil by being left at large; and if it be found, as I believe will be the case in most places, that out of eight boys convicted a first time, only one or even two are convicted a second, I do say that I greatly doubt the power of magistrate or judge to say which one or two of the eight will be the defaulters. If he, however, makes his selection, and sends a boy or two on the first conviction, there is a certainty of a heavy cost to the country, with a great chance that he has taken the wrong one. If he simply waits to see whether the boy *does* come again, he will at any rate be justified in his order. A magistrate, in dealing with public money, ought to be at least as careful as if he were dealing with his own. But if a man has any evil which he wishes to remedy, and if two remedies are offered, one of which costs 15s. and the other 40l., and if the former is found to succeed in three cases out of four, and if the latter remedy can be tried on the failure of the first—who, if dealing with his own money, would not try the 15s. remedy first?

But some say, A boy is more easily reformed if taken very young and on his first conviction. I must say, my experience is wholly against this view. A small boy may be (but by no means always is) less trouble while in the reformatory, but he must either remain there very long (at a large cost), or be sent out early; and I believe that a boy leaving the reformatory at 14 is in far greater danger of relapse than if he has come at 15 and leaves at 17.

But it is said, Why should we not leave all managers to receive boys on first or second conviction as they please? Why should one manager be bound by the opinion of another? Simply for this reason. Many managers have for long refused to receive first convictions, and therefore have kept their districts clear at a small cost to Government. Others receive them, and cost the nation a very large sum. But if a large sum is expended, and if the Government complain that just as crime or duty. The Christian is called on to seek and save what is lost, but the statesman and the community are most concerned with the effects of reformatories on the general amount of crime and in reference to the protection of property and the moral health of society at large.' At pp. 18 and 19 they would find some excellent remarks which, had they received the attention they deserved, would have prevented our first resolution.

decreases the cost of crime increases, I fear that they will hardly trace the excessive expenditure to this or that reformatory, but will say that the system costs too much and cut down all reformatories alike.¹

But the question arises, Has the reformatory system on the whole cost more than it has been worth? I think decidedly not. I doubt much whether any system has ever been tried in this or any other country which has had so perfect a success. I doubt if any experiment has ever been tried which has diminished the crime of a great country (or at least that portion of it on which it was allowed to act directly) by nearly one-half in four years. I have strong reason to believe that the stop which has been put to the wretched system of committing boys time after time to short imprisonments is still quietly doing its work,

¹ When we consider that it is stated by the inspector that 'more than one-half (accurately four-sevenths) of the boys committed to reformatories in 1860 were on first conviction,' is it not tolerably clear that there is abuse somewhere?

But some write to say, 'Our magistrates take the greatest care; they seldom send a first conviction to a reformatory, and never without careful examination, and therefore no rule is necessary.' It appears to me they might just as well argue, 'We are honest and solvent tradesmen, therefore the Weights and Measures and Bankruptcy laws ought to be repealed.' No stringent law is intended for those who do well, but if the existence of wrong-doing is shown, a necessity for a rule is proved, and the fact that some would go right without law is no proof that no law is required.

Nay, some of the strongest proofs of the need for some such rule may be found in the arguments of those who deny it. I am told, and am inclined to believe, that in Liverpool unusual care is taken to inquire into the cases and previous histories of convicted boys—far greater care than could be exercised over a larger and more thinly populated district. In Liverpool, too, as in all dense populations, there are a far larger number of second convictions in proportion to the first than will be found in the average of England. Yet in Liverpool in the year ending September 30, 1861, out of 102 boys sent to reformatories, forty-one were on first and sixty-one on second or third convictions.

Now if in Liverpool the second convictions are far more numerous (in proportion to the first) than elsewhere, and if on peculiarly careful examination only two-fifths of those are sent to reformatories, then indeed it would appear that if four-sevenths of those sent to reformatories throughout all England be on first conviction, a check is sorely needed.

I say a check, not a peremptory refusal to receive such. Such refusal was never proposed, but merely that a magistrate should not send a first conviction to a reformatory without being able and willing to state a reason for doing so.

and in a few years more will be found to tell strongly in the diminution of adult habitual crime. I may mention as one of the instances of this, that although I have lately had some conversation with London and Birmingham boys, I can hear nothing of any pickpocket under eighteen or nineteen years old, and I believe that nearly all that now exist have been trained several years ago, and that no new generation is succeeding them. This, amongst others, is a proof of a more extraordinary success than the most sanguine of us could ever have anticipated. But this must only make us more anxious that the system which has worked so admirably should not be tarnished by applying its valuable but expensive powers to cases which, in seven instances out of eight, will practically be found to be cured by so slight and inexpensive a remedy as a ten days' imprisonment.

I have dwelt so long on the first, as the most important and most debated resolution, that I may allude very briefly indeed to the others.

The second simply urges that boys should, with very few exceptions, be sent to a reformatory on a second conviction. If this be acted upon, the first conviction will have given a boy fair and unmistakable warning, and a *certainly* of reformatory treatment on a second conviction will have a strongly deterrent effect. It will, too, so far as my experience goes, be both sufficient and effectual in preventing any boy from the possibility of acquiring such habit and practice in thieving as will enable him to steal much, or, which is of more importance, to make himself an object of envy or admiration, and therefore of temptation, to other boys.

The third resolution merely prays for the removal of a serious impediment to the establishing of Industrial Schools. The legislature naturally looked with some fear at the rapidly increasing expense of reformatories, and was unwilling to rush into a new expense which appeared likely to increase in the same way.

If we can now show a willingness to reduce our own cost when our work is more than half done, we may hope that it may be more inclined to trust those who follow us.

The fourth resolution, calling on magistrates to press strongly for parents' payments, hardly meets with a dissentient voice.

The fifth also, enabling us to occasionally transfer to some stronger and more penal prison a case of extraordinary violence or badness, would be valuable to us. The number of cases in which this might be used has been stated at about three per cent. on the committals. I myself should not put it nearly so high.

The sixth resolution has been objected to by several managers, who say that a boy cannot be reformed under a long period of detention. Pardon me if I say I think that this objection is made by gentlemen who rather judge what human nature is likely to be, than look at the facts as they exist. One great advantage of the reformatory work is, that we have the facts to look to instead of theories to reason upon. We do not judge of the probable effects on a boy by what he says at the time he leaves us, but by keeping a watch, and seeing what has become of him two or three or six or seven years after he has left us; and I think that those who can judge by the latter and safer test will find, that if a boy committed for five years be placed on licence soon after the half of his sentence is over, he will be better fitted to take his place in the world than if he be kept four or five years in the reformatory, and this will be done at only half the expense, to the honest, of the longer detention.

The seventh prays merely, that *in case* any alteration be made in reformatory Acts of Parliament, certain clauses should be inserted which we who manage reformatories know to be valuable, but which might probably not occur to those who had not practice in the work. I believe that the first suggested clause would do much to diminish crime and at the same time to save expense.

But the eighth resolution has been objected to, as taking us out of our own sphere. Some appear to imagine that 'our business' is each to look after his own reformatory, to keep it as full, and to make it as flourishing a little establishment as possible. By most of us, thank God, such is not esteemed the work we have in hand. Our work is to stop crime, whenever and however we can. An opening appeared by which we might hope to stop crime by dealing with the juvenile portion, but because that was the best opening we saw, it must not be assumed 'that we took up the boys as our hobby,' to the exclusion of our interest in other matters bearing on crime.

Our Hardwicke meeting was, it is true, composed chiefly of men who managed reformatories, but by no means of men who did nothing else. Nearly, if not quite all, were magistrates of some weight and experience in their own counties. Five were chairmen of quarter sessions. All were not merely men intent upon the success of some special institution of their own, but men who had worked and are working for the diminution of crime, either by means of reformatories for the youthful, or by a better system of treating adults, or by any means by which the amount of crime may be lowered throughout the land.

Such a body of men may surely, if they believe it to be for the public good, lay their opinion before H.M. Secretary of State, without extraordinary presumption. He will receive it and act upon it, or he will reject it, precisely as he pleases. But I must entirely protest against the assumption that because I have been a reformatory manager for ten years I must forget that I was a visiting magistrate for twenty years before that, or that I must be deaf and blind to all that may affect the diminution of crime in general.

I believe there is no one of the resolutions which would be so unanimously approved of as the eighth, excepting on the ground of its being out of our sphere, and to that I can only reply, *Homo sum; humani nihil a me alienum puto.*

And now, in concluding a far too long letter, written a page or two at a time during an absolutely necessary rest, let me say that I cannot but rejoice at the discussion it has caused, because I am sure that such discussion was necessary, were it but to show us that we are not and never have been so unanimous on some important points, as many were willing to think us. What action the majority of the party at Hardwicke may think it right to take, either by deputation or letter to the Secretary of State, it will be for them, not for me, to determine. I will only undertake to say on their behalf that all shall be fairly and openly done, and that every manager shall have due notice to make his own separate and opposing statement, if he pleases, and let H.M. Secretary of State judge (as he must and will judge) for himself between us.

REFORMATORY FAILURES.¹

I WRITE you a letter, with the above ominous heading, because I wish to draw the attention of your readers (including a great part of the magistrates of the county) to numerous failures which we have made in our attempts to reform boys. I have often in your columns called attention to our successes; I believe those successes to be great, and their effects to be lasting; but, of course, it is not to be supposed that we should be without failures, and it must be remembered that reformatory managers can do but little unless aided and assisted by the magistrates and the public. It is of importance that the magistrates and the public should know and understand as far as possible our failures and their causes.

I believe that a large portion throughout England, though I hope few of our own county, imagine that we have some specific nostrum for wickedness; some sort of moral mill, into one end of which we can put a bad boy and grind him out good at the other end with certainty. Now, you well know that this is a thing we never pretended to do; we only take all the bad boys who are sent to us, and do our best to fit them for the trials of the world, and to watch and influence them after they leave us, so that by any means we may contrive to keep them out of habitual crime. We may heartily thank God for giving us reason to believe that we have by one way or the other succeeded in staying off many from such a course. But in many instances, though we have checked the course of crime, we have failed in producing a satisfactory effect on the individual. We wish it to be understood that our first object is to lessen the amount of crime through the juvenile classes in England; our second object is the reformation of each individual committed to us. In the former we have been very successful; in the latter we have had some failures. Now it is to these failures and their probable causes that I wish to draw the attention of your readers. Let me instance a few of the most striking examples, in order that the magistrates and the public may, from knowing them, be better prepared to assist us in dealing with them.

So far as my experience will go, the causes which lead boys

¹ Letter to the editor of the *Gloucestershire Chronicle*, June 24, 1862.

or men to a first offence are so slight that we can do but little to guard against them, with one exception; the one great and important cause of boys or men being led into the commission of a first offence is the example and the company of old and hardened offenders. This it has always been our first object to prevent, by the very simple expedient of preventing the possibility of offenders becoming old and hardened in crime. This may always be effected if we can give a greatly lengthened term of detention on each recurring offence. We may at any time fail in reforming this or that individual; but if on a second offence he is sentenced to a much longer detention, and on a third to a very much longer again, his physical detention will prevent the possibility of a continued habit of crime, and thus prevent the possibility of his having much time or opportunity to corrupt others. Our statistics show that out of every six boys committed for a first offence, only about one throughout the agricultural counties of England relapses into crime. In the large towns and thickly populated manufacturing districts we hardly find above one in four; but as of those who relapse once, and who, of course, are far the more dangerous, a far larger proportion relapse again, it is of the latter class that I would wish to speak here, and to note the principal causes of these frequent relapses.

Perhaps the most obvious and palpable cause is that of being returned after an insufficient training into the scenes and associations of his former crimes. This is by no means a common case, but such things will happen occasionally. Many years ago a boy (No. 131) was sent me from one of the largest manufacturing towns of England; he was an accomplished pick-pocket, aged thirteen, weak in body and limbs, unable to do much work, but thoroughly habituated to dishonesty and untruth; he was committed for only two years; at the end of that time we were obliged to discharge him, too weak in body to do hard work, and but little improved in principles of honesty or truth. Of course he could only return to his home, where, although we kept some watch upon him, and for some time succeeded in holding him straight, he relapsed after a time, and by repetition of that most unhappy punishment, a three months' imprisonment, he soon became habituated to the life of a gaol

bird. I am happy, however, to say that even this has not destroyed all hope, and that after many years he is improving and showing signs that all the good seed was not lost, though it for a long time lay dormant.

A second cause of relapse is occasionally found in a violent and passionate temperament; this is the more sad, as the boys have often much in them of good feeling and wish to do right. I received (No. 10) a boy of this character long ago from Cheltenham. Having at that time little experience, I allowed him to go into service in a large town, where, as I afterwards found, he had been in the habit of going when the Cheltenham police were in too hot pursuit of him. In this town he well knew every den of iniquity, and yet he continued honest to his employer for more than twelve months; at the end of this time some of his old associates found him out, and drove him into leaving his service. The moment he again embarked in crime he became perfectly reckless, and after the first punishment went and broke into a house, where he could not have hoped to escape detection. He was sentenced to seven years' penal servitude. I saw him on his return from Bermuda apparently hard and reckless, but, with the aid of others, he was persuaded to emigrate, and, though I have not since heard of him, I have every hope that he will do well. Another boy (No. 180) of somewhat the same natural temperament, but inasmuch as he was sent to me on his second conviction far less hackneyed in crime, showed much amiable and generous feeling, but combined with a desperate recklessness that neither he nor we could govern; with much intelligence and good feeling, he had no control over himself; and not long since, having been punished for a slight crime (sufficiently, perhaps, if only the offence itself be taken into account, but insufficiently if we regard it as a repeated offence), he recklessly broke into a house within three hours of his discharge from prison. Whether a very long detention will overcome this recklessness remains to be seen.

A third source of relapse is, as I believe, a physical defect in the organisation. Some appear to have scarcely the power of determining between good and evil; and yet, strange to say, out of the five whom I have put down under this head, two were

boys whom almost any schoolmaster would class as of remarkably high intelligence; their arithmetic, their knowledge of Scripture, their answers, not merely as to facts but as to reasoning, were very far above the average of boys of their age. Yet I believe nearly any of these boys, especially the two cleverest, would at almost any time have stolen anything which would have given them a momentary gratification, if they had known that they were certain to be hanged for it at the end of a week.

But the fourth, and I believe the most dangerous cause of relapse, I can hardly call by any other name than that of idiocy. I do not mean legal idiocy; there would be no legal power of shutting up such a one in an idiot asylum; but I mean such a want of obedience to the commonest dictates of reason as leaves us little power of acting on them for their good. A boy (153) was some years ago sent to me for, I believe, a first offence. He had been brought up in terribly vicious associations, but had, I believe, himself committed few crimes. He was generally gentle and obedient so long as a watch was kept upon him, but he was utterly unfit to take care of himself. After keeping him for a long time I placed him on trial with a master. For a time he proved idle and slow, but not otherwise ill-behaved; but after some time the longing for his old bad haunts returned. He employed 3s. 6d., which he had received for his master, in running away to return to his bad friends, and was, of course, soon recaptured and brought back to me. After a twelvemonth's tolerably good behaviour, as he professed a strong wish for sea, he was put, with a sufficient fitting out, into a good ship bound on a long voyage. He was a good cook; the captain was much pleased with him; everything appeared to be going perfectly smooth, when, two days before the ship sailed, he suddenly absconded, left all his clothes, and begged his way for 150 miles to some relatives, who could give him but little help, but would allow him to go on in the careless, reckless, hand-to-mouth life of his youth.

But the saddest and most singular instance of this class is the case of 60. When committed to me in 1855 he was quiet, gentle, but apparently hopelessly stupid. After a time I removed him to another reformatory, where I thought that the more gentle treatment of a very kind master, and the com-

panionship of the generality of smaller boys than those with me, might probably draw out some good. At the expiration of his sentence a place was found for him on a farm, but ere long he absconded, and wandered about as a beggar in lamentable destitution. Coming back here in a state of extreme wretchedness I took him in again, and allowed him to regain health and strength. A place was offered which I had imagined would have been a hard and rough one, and I sent him there, thinking that he might be driven to work and sharpened, while, at any rate, no suffering he could undergo there would be so bad as the wretchedness to which he had brought himself. I found, however, that I was mistaken in my estimate of the place; a remarkably kind housekeeper had the charge of him; he wanted nothing, and was more comfortably off than the generality of boys are able to be placed. When I found this I wished to take him back, and to send a more hopeful and less stupid boy in his place; but the kind old lady would not hear of changing him; she said that 'he was quiet and steady, and she would keep him and see whether he would not grow up more quick and clever after a time.' For a long time he went on dull, but steady and quiet, but one night he broke open the cupboard where the money was kept, stole two pounds, and returned—not to his friends, for he had none, but to his native place. He was caught, brought back, and sentenced to three years' penal servitude. His subsequent history I only give from his own account. He had nine months' separate confinement in Leicester gaol, and was then sent to Chatham; he was one of those punished for the Chatham mutiny; and at the end of three years, viz., the 29th of March last, he was discharged and sent up to London with 1*l.* 9*s.* 10*d.* in his pocket. His gratuity altogether amounted to 4*l.* 9*s.* 6*d.*, and he was told that if in ten days' time he wrote for the remainder it would be sent up to him. Alas! no attempts at teaching him to write or even to read had ever been successful; he knew no one in London who would write for him, and therefore, having tried ineffectually at some half-dozen places to get work, he spent the remainder of his money in returning to the house where he had lived and which he had previously robbed. After sleeping two nights under hayricks and nearly starving he went to the farm, saw the door open,

went in and hid himself, and at night again broke open the very same cupboard, took out a very large quantity of silver, slept till morning in the stable of the very house he had robbed, and a week afterwards was found in the immediate neighbourhood with the greater part of the money still in his pocket, never having had the simple instinct to remove himself and his money from the neighbourhood, even although he was so marked by nature as to be recognised by any one who had had the description of his person.

Now, Sir, what is the use of narrating such miserable cases, or how can one hope to profit by the knowledge of them? In the case of the passionate, of the bad, or of the idiot, it does not seem as if punishment would have much effect. I fear indeed that in most of these cases (which however, remember, are some extraordinary cases out of nearly 250), there is but little chance that either the punitive or the reformatory process will have much effect. But we must remember that the punishment or the reformation of the individual is not our first object. Our principal aim is to *stop crime*; to deter, by short punishments, if possible; next, to try the longer and more expensive mode of reformatory treatment; but if the latter fails, unless we have reasonable hopes of finding some other plan that will succeed, we must do our duty to the public by guarding them from the passionate, the reckless, or the idiot, for as long a time as the law will permit. It is not that this should be done in a spirit of vengeance or ill-will to those who are afflicted by nature with a lack of power to restrain themselves, but for the protection of the public; and from mere kindness to themselves they ought, like lunatics, to be restrained from the commission of evil. I must, by the way, add, to the credit of our bad boys, that the two last were, I think, the only cases that I have known in which boys have been convicted of plundering the masters with whom I have placed them. On the whole, I must confess that my experience tends to confirm my opinion in three points. First, it is almost always better to send a boy to a reformatory on his second, or, at any rate, on his third conviction; repeated imprisonments are terribly apt to harden. Secondly, that a two or three months' imprisonment is almost always a bad thing; he finds a comparatively good diet; he has time to get over his first

discomfort and horror of prison, and he leaves it with the impression that after all prison is not so bad a place as he at first thought it; that impression he communicates to his friends, who are probably just the class who most require to be deterred, and the deterrent effect is proportionally weakened. A ten days' imprisonment, on the other hand, gives a boy mere bread and water, and sends him out with the horror fresh upon him. On the third point I have less of direct evidence to show; it is difficult to find out discharged convicts, and to trace their histories; but my impression is, that three years of penal servitude is as bad and useless a sentence as three months of imprisonment. The convict can shorten his term but very little by the best possible behaviour; and the gratuity which he will have earned (though quite enough to enable him to be drunk for a time if he wishes it) is not sufficient to enable him to emigrate. The objection to a seven years' sentence has hitherto been that the convict was likely to be sent to Bermuda; but the week before last Sir Joshua Jebb informed us that that establishment would shortly be broken up, and a five or seven years' sentence will henceforth be passed in England.

Forgive my having asked the consideration of your readers at so great a length, but I think these are points requiring attention.

REFORMATORY FAILURES.¹

I AM much obliged to Mr. Moden for his letter, because it shows that I have not expressed myself clearly, and gives me an opportunity of explaining.

In the first place, though I am always obliged by sympathy, he must not suppose that I am in the smallest degree discouraged or in search of condolence. On the contrary, from the very beginning my work has been so much more prosperous and easy than I could have hoped that my fear has been that the success must be accidental, till ten years' experience gave me good hopes of its continuance. To see a steady decrease of juvenile crime exactly coeval with the spread of reformatories throughout

¹ Letter to the editor of the *Gloucestershire Chronicle*, July 17, 1862.

England, till the convictions amount now to little more than half what they were six years ago, is not a matter to make those who have had a hand in the work despond. But it is desirable to call attention to the few failures that exist, that we may try to remedy them for the future. The remedy I should suggest for the first class of failure, viz. that of sending a boy very young from the reformatory to a bad home, would be this : I have said that I do not think it right to receive boys (save in very rare cases) on a first conviction. It is not often that a boy is convicted a second time before he is twelve ; but if he be sent very young to a reformatory the sentence should be lengthened so that he may be detained till fifteen years old at least. For boys of fourteen, unless there be some peculiar features of evil, or their previous associates have been worse than any which this county can now show, two or three years are quite sufficient ; but a boy of twelve had better have three or four years at least.

I am glad to take this opportunity of mentioning that industrial schools are now ready to take boys under twelve committed by magistrates. Miss Carpenter (Red Lodge House, Bristol) will receive any applications for admission to the Park Row Industrial School ; and the Secretary, Industrial School, Pennywell Road, Bristol, will give information of that establishment. Let me add, as the industrial schools are new to most magistrates, an extremely handy little book has just been published by Shaw, Fetter Lane, London, entitled 'The Law relating to Juvenile Offenders,' by T. C. Sneyd Kynnersley, Esq., police magistrate of Birmingham, which ought to be in the hands of all petty session, if not of all magistrates.

For the second, third, and fourth causes of relapse¹ I believe the same remedy to be applicable, namely, a sentence depending for its length less on the crime itself than on its recurrence. The object of punishment is threefold (it is not to take vengeance on the man who *has* done wrong—that would be simply useless and wrong—but it is) first, to deter others from doing the like ; secondly, to prevent the same person from doing the like again ; thirdly, and chiefly, to protect the public at as low a cost to the said public as the work can be effectually done. In fact, the first two are the means for effecting the third. Now,

¹ See previous letter, p. 213.

it is practically impossible for a magistrate to tell when a boy is tried before him whether he is passionate, weak, or idiotic to a sufficient degree to make him offend again, but he can tell (or at least after a week's remand, as recommended by Mr. Kynnersley, the police can, in ninety-nine cases out of a hundred, discover) whether the boy has been in gaol once, twice, or three times before, and what sentences he has undergone, and may judge well from his previous punishments what sentence will be most likely to stop him for the future.

If a boy has been for two years at a reformatory, and is convicted again within six months and is sent to gaol for three months, and then after three months' liberty is again convicted, is it not a palpable absurdity to send him to gaol for three months again, and then turn him out again to plunder? Are you deterring others? No, directly the contrary; for 'Robinson, who has been eight times in gaol, and yet is the jolliest fellow going,' is, of course, a hero among those who are likely to steal, and is not a deterrent but an incentive. Does it make him less inclined to steal? No; it only hardens him and makes him desperate. Does it protect the public? No; so far from it that it leaves one skilled and hardened and desperate thief to prey upon them for half his time (and keeps him in prison at a heavy cost to the said public for the other half); and it induces very many to follow his example, and gives him every facility for instructing them in his trade.

No; if magistrates wish to lessen crime (not merely to avenge it, to exercise the *lex talionis* familiarly called tit for tat), I doubt if they can find any rule for sentences so applicable to their object as simply to order for a first offence ten days' imprisonment, as the term which gives the lowest diet; for a second offence two or three years in a reformatory (or, if under twelve, in an industrial school). If either from uncontrollable passion, or from stupidity, or from idiocy, a boy cannot after this restrain his evil propensities, he should have, I should say, not less than five years' penal servitude, which shall at least keep him out of mischief, prevent his inciting or teaching others, and protect the public for that time at least. On a fourth conviction I would not give less than ten years.

Such a system would be in the highest degree deterrent (the

first object to be sought), because an unconvicted boy or man very rarely calculates the probable amount of punishment. 'The being caught' is the thing that he dreads. After a first conviction he begins to calculate 'what he is to get,' and two or three years stare him in the face. After a second he ought to know that five years' penal servitude would follow his next fall, but he does not know it. The poor fellow No. 180, whom I saw in the cells below the Shirehall after his last sentence, said, 'I can't think how the gentleman came to give me five years.' I said, 'Have I not always told you that if you relapsed after leaving the reformatory you would probably get five years?' He replied, 'Yes, sir; but I had been sent to gaol twice, and No. 125 once, since leaving Hardwicke, and we never thought they would give us penal servitude now.'

Secondly, This system would prevent the same person from doing the like again; for after the first offence the length of detention would make it physically impossible for him to acquire a habit of stealing.

Thirdly, The public would be protected; first, by the impossibility of any man becoming a skilful practised thief for want of time to practise; secondly, by the deterring power being applied in the most effectual way; and thirdly, by avoiding the present habit of keeping a stock of habitual thieves in the country, half their time living at the public cost in prison, and every alternate three months living on plunder, and inciting and teaching others to follow their steps.

But you will say the large numbers sent to penal servitude will be enormously expensive. Not so. If first convictions were usually treated with a ten-day sentence, it would greatly diminish the gaol population. If they knew that a reformatory for boys, or a six months' imprisonment for men, would be the consequence of a second conviction, second convictions would be rare, and third rarer still. At present the feeling is that 'a very small offence will bring a very small punishment, and they don't much mind that.' The boys I have called 180 and 125 assured me that 'they only got in at the window of a house to light their pipes, and they felt sure if they were caught they'd only get a week for that.' Nobody now-a-days plans a great robbery; but having begun with a trifle, for which they expect

almost impunity, they go further and steal all they find. If a boy or man knew that when he had gone wrong once, and had had fair warning, a far heavier punishment awaited his next relapse, we should have fewer 'failures' either of prisons, reformatories, or penal servitude.

We trust that the system of penal servitude will ere long be reformed; we trust that men will not be sent out into the world with a licence to 'go to some place where their previous character is unknown, gain if possible a place of trust, and begin an honest career,' by telling a lie and passing themselves off for what they are not. A better, because a more reasonable and more true, system exists in Ireland; and we must adopt it. It is possible in England, because all our reformatories have adopted it and have found it answer. That it is desirable for the public benefit none who have studied the matter can doubt. Yet I believe that this great and beneficial change will have far less than its proper effect unless we more carefully consider the intention and the effect of our sentences.

MANAGEMENT OF REFORMATORIES.¹

I LATELY addressed you and your readers on the subject of ticket-of-leave as applied to convicts sentenced to transportation. I have since been told that a very large number of our magistrates are not aware of the way in which the licence system is used in our reformatories. If this be so, I think it is not my fault, as I have frequently explained it through your columns and those of others; but I am at all times glad of any opportunity to give further information on the subject. Forgive me, then, if I touch briefly on the whole management of reformatories.

A reformatory must be understood not to be a charitable institution for the benefit of children sent there, nor for the purpose of relieving parents from the duty of taking care of their children, nor to relieve parishes from supporting their own poor, but their object is to decrease crime—first, by lessening temp-

¹ Letter to the editor of the *Gloucestershire Chronicle*, April 18, 1863.

tation to the hitherto innocent; and, secondly, preventing those who have commenced crime from continuing it.

Now, it is obvious to all who have at all studied the matter that nothing is so likely to lead a hitherto innocent boy into crime as the fact of his finding constantly before him several boys who are in habits of crime, who are sufficiently skilled to encourage and to teach him, and who are sure to take every opportunity of leading him astray. But a boy has never arrived at this point at the time of his second conviction. For this reason the managers of the reformatory schools (with the entire approval of the Home Office) decline as a general rule to receive boys on their first conviction, but beg to have all boys sent to them on the second conviction. Of course there will be some few exceptions to such a rule. A boy who has been long known to the police as a clever thief, though he has not been previously caught, may in some cases be sent to a reformatory on his first conviction. There are also some offences which, although they do not betoken serious bad feeling in a boy, may yet require his removal and his being taken care of for some length of time, such as arson or putting stones on a railway. Again, there may be trifling cases in which it would hardly be worth while to incur the expense of a reformatory even on a second conviction, but these exceptions ought to be few.

In cases where boys require care rather than reformation, where the parents are bad or are absent, and a child is rather in *danger of falling* than having fallen, he may be sent, under twelve years old if found guilty of larceny, or under fourteen if found guilty of vagrancy, to one of the industrial schools established under Vict. 24 and 25, chap. 113. Two such schools are established in Bristol, and magistrates may receive any information about them from Miss Carpenter, Red Lodge, Bristol, or from R. S. Ramsden, Esq., Victoria Square, Clifton.

A boy sent to a reformatory must be committed first to prison for fourteen days or longer, and at the end of such time to the reformatory from two to five years. It does not, however, by any means follow that he is to remain there for the whole sentence. This is exactly the point which I am told is misunderstood by many, and which I am particularly anxious should be as fully understood as possible.

∴ The law has evidently not intended the reformatory manager to be a mere blind instrument for the simple infliction of punishment, but has throughout given him large powers to be used as may be required for the diminution of crime. He is not judged of by the Home Office simply according to his carrying out a certain routine, but he is expected to show, year after year, what has become of all the boys who have passed through his hands ; and he is judged not by the polish of his floors or the goodness of his dinners, but by the after-life of those who have left the school, and by the rarity of those who require its treatment. The law has, therefore, trusted him with unusual powers, and has found the benefit of doing so ; while it is the duty of the Home Office inspector to watch the exercise of those powers, and see that they are used with discretion.

The law in the first place, while it gave long terms of detention, gave power to the Secretary of State to relax these terms at pleasure ; but the obtaining such a remission took some time, and left the manager powerless to restrain the boy if he went wrong after leaving the school ; therefore, by the 20th and 21st of Vict., chap. 55, the manager of a reformatory was empowered not to give a boy a pardon, but at any time after the expiration of one-half of the sentence to give him licence to work elsewhere so long only as he continues to behave well. This licence must be renewed every month, and is forfeited at any moment that the manager may see fit to withdraw it.

This is a large power to place in the hands of the manager, but is one extremely beneficial to all concerned. The great object is to lessen crime to the greatest possible degree. The manager who has had the boy under his watch from one to two and a half years must be better able to judge when he may be safely trusted at large than the magistrate who only saw him for half an hour during his trial. Again, it is desirable that the expense of a reformatory should be incurred for no longer a time than is necessary. Now, having power to recall a boy, we are enabled to make the experiment of putting him out far earlier than we would have otherwise ventured to trust him. But more important than all is the stimulus given to a boy to behave well on his first discharge by the knowledge that he is kept under watch, and is liable to be recalled not only on the commission of

a crime, but upon his being found in bad company, or idle, or even out of regular employment. All statistics show that if an offender after leaving prison works steadily and honestly for a year or two the chances of his relapse to crime are very greatly reduced. It is just at his re-entrance to the world that the temptation is the greatest, and it is here that the licence system, if properly carried out, exactly meets the difficulty.

This is the system which was *attempted* in England under the name of ticket-of-leave, but was unfortunately rendered useless by leaving out the supervision which was its most important feature. It is the same system which tried in Ireland has reduced the number of convicts by more than one-half, and which tried in English reformatories reduced the number of convictions of English boys by nearly one-half, and the amount of crime in a far greater degree.

It is true that in the year ending September 1861 the number of committals of boys and girls increased, and has continued increasing to the present time; but the distress of the country for the last few years fully accounts for this. And it is somewhat remarkable that, while from 1856 to 1860 inclusive the number of adult committals decreased from 99,755 to 92,585, the juvenile committals decreased from 13,981 to 8,029; but upon the distress occurring the adult committals increased to 112,144, while the juveniles increased to 8,801. In round numbers, the boys under reformatory treatment decreased 46 per cent., and the adults under prison treatment decreased 7 per cent., during prosperous times, and in the first bad year the adults increased 20 per cent. and the boys 9 per cent.

In conclusion, permit me to ask the attention of any of your readers who may wish to understand easily the law and practice on these subjects to a small work entitled 'The Law relating to Juvenile Offenders,' by T. C. Sneyd Kinnersley, Esq., stipendiary magistrate of Birmingham; published by Shaw & Sons, Fetter Lane.

Another point I had omitted. Although the *first* object of such an establishment is the separation of the bad from the good, and preventing the former from corrupting the latter, yet it must not be forgotten that the reforming the bad is our second object. But to give us a fair chance of doing this a boy ought

not to leave the reformatory before fifteen or sixteen years of age, and even then it is better that he should have a tolerable period to pass under surveillance. If, then, a boy under twelve be sent to a reformatory at all (an industrial school is better, where it can be done), it should be for not less than five years. He may then, if he give good hope, be let go on licence in two and a half years, but will be kept under watch till fifteen or sixteen. Even if he be under fourteen, a four years' sentence is advisable, so that he may receive a licence at fifteen, and be kept under watch till seventeen. Between fourteen and sixteen a three years' sentence is better as a general rule, as it is not often that we can safely give a licence under eighteen months' detention, and the longer the surveillance is continued the better. I should recommend a sentence of two years only in case of a boy with respectable parents and no very bad companions, who, as sometimes happens, has fallen into a habit of pilfering. Twelve months or more of reformatory may just break this habit and return him to a careful and steady father with good effect.

REFORMATORIES.¹

I HAVE just received your paper of the 27th of October, containing a leader on the capture of 'the Jack Sheppard gang' of boys as well as of John Fay, the 'remarkably intelligent fugitive from the Stoke Reformatory.' Will you permit a few remarks on both?

The former lot of boys are stated to have said that 'they wanted three years'—i.e. a sentence to three years in Feltham Reformatory—and all to have been convicted from two to eight times. And you rather doubt whether the treatment will be effectual in curing such desperadoes. Forgive me, sir, if I ask you to consider another view of the subject.

You probably have been used to look upon us reformatory managers as a set of very kind-hearted but unpractical gentlemen, who limit our desires and objects to taking any poor children who have gone astray, and endeavouring by kindness to win them back to virtue. If we do so win them back, we

¹ Letter to the editor of the *Daily Telegraph*, November 4, 1865.

are considered to succeed ; if they return again to crime, all our labour is lost. Forgive my saying there never was a more mistaken view of our objects, or of the work done. Our objects from the commencement were far more for the prevention of crime than the reformation of the individual criminal. The success of our work is not measured by the numbers we have reformed, but by a decrease in the crime of the country equal to five times the number we have ever had committed to us to be reformed.

In 1856 the numbers of boys and girls under sixteen years o'd had long been on a steady increase, and had reached 13,981 ; but that year reformatories in general came into operation throughout England, and the numbers in the four following years were 12,501, 10,329, 8,913, and 8,022. You will say that this change cannot have been caused by reformatories ; but if so, by what was it caused ? Nay, in many places the crime sank earlier here, later there, according as reformatories were earlier or later established.

Nor is there anything wonderful in such a diminution, though I fear it may detract from the romantic view which you and others may have taken of reformatories. There is nothing belonging to them but the most dull prosaic common-sense. Before they were established magistrates were unwilling to condemn small boys to penal servitude, or to terms of twelve months' imprisonment. They therefore usually gave them three months ; at the end of which time they returned home, and found most of their former companions on the spot, and again commenced their training in the art of thieving. Ere long they were caught again ; again got three months, and again returned to their education. After a time they became proficient, were successful as thieves, and became objects of envy and admiration to the neighbouring boys, and ready and skilful instructors to such as wished to emulate their exploits ; and an eight or ten times convicted thief spread a fearful infection through the neighbourhood.

But when reformatories came into action, magistrates committed to them at first the oldest offenders ; and when these were gone, every boy who was a second time convicted. The consequence was evident. So long as every boy was locked up for three years on his second conviction it was clear that none

could continue his education—none became clever and successful thieves—none excited the envy and emulation of others, and few became thieves at all.

I have a rather interesting document which I drew up in 1859—a list of 456 boys under sixteen years of age then in London who had been four times or oftener convicted (165 of them eight times or more), with all their histories. In 1863 I do not believe that there were ten boys in London under sixteen who had been four times convicted. It is a difficult matter for one who has not had much acquaintance with that class to fully appreciate the extraordinary value of such a change as was made in those four years.

From your account it appears that of late several boys have failed to be sent to reformatories on their second convictions. Either the police have failed to recognise them, or have not reported them to the magistrates, or the magistrates have preferred to sentence them to repeated short imprisonments. Whichever it be, it is much to be regretted, and if such failures continue crime will be sure to increase in that locality. I knew the Lisson Grove boys pretty well some years ago. They were never highly skilled thieves, like the pickpockets of Keate Street, Whitechapel, but were merely rough, daring shoplifters and parlour jumpers; and the new race seem to resemble the old ones.

The rise and fall of crime consequent on a repetition of short imprisonments, or on the sending to a reformatory on every second conviction, are extraordinary.

Let me give you the case occurring under my own eye in Cheltenham. The number of boys committed under the Juvenile Offenders Act in that town had risen pretty steadily from forty-five in 1852 to fifty-three in 1856. At this time, the reformatory being well established, every boy committed for a second time, with one or two exceptions of very slight cases, was sentenced to two or three years' detention. In 1857 the number convicted was fourteen; in 1858 there were twenty-five; in 1859 there were fourteen; in 1860, thirteen. In 1861 some magistrates thought it better to return to the retaliative system: five or six boys on second or third convictions were sentenced to short imprisonments, the certainty of a long term on second conviction was removed, and the number rose to twenty-four. In 1862,

eighteen boys, who had been repeatedly convicted, were sent to prison instead of, as heretofore, to the reformatory; three of them in particular were sent from four to seven times, and of course became perfectly hardened, laughed at the punishment, and encouraged others to laugh at it also, and the total convictions rose to forty-nine. In the year ending Michaelmas 1863, the three boys above mentioned left Cheltenham, nine others were sent to the reformatory, and the number convicted fell to twenty-five. In the year ending Michaelmas 1864, the number was again reduced to thirteen, of whom only two had been previously convicted of felony. In the above account allowance must be made for the fact that in 1862 the total convictions of all ages in Cheltenham increased from an average of seventy-five to 120, and decreased again in the following years; but this is not sufficient to account for the extraordinary proportionate increase of boys, so exactly tallying with the alteration in the system of punishment.

But the direct effect of long detention is not the only one. You not unnaturally assume that a life in a reformatory with hard work, but cleanliness, good air, and good food and education, must fail to have any deterrent effect. Probably, had these boys the choice of three months' reformatory or three months of gaol, they might prefer the former; but the prospect of a three years' detention is generally to their feelings most appalling, and though Jack Sheppard and Co. said 'they wanted three years,' I suspect it was merely that they felt certain they would get it, and they indulged in the bold bragging style which the Lisson Grove boys always loved.

But with regard to the 'remarkably intelligent youth,' John Fay, it is never very safe to trust to what any one boy of this class may say. It is well worth listening to them, as I have done for many hours; and where we find five or six, in one or two hundred, who can have had no consultation, yet all tell the same tale, we may get from them most reliable and valuable information. But when John Fay talks of the boys at Stoke telling each other 'of the burglaries and highway robberies' they had committed, he shows too high an appreciation of the utter ignorance of his hearers. It is quite true, however, that in the rough, hardworking life of a reformatory, it is out of the question

to keep the boys separate. They must have ample opportunities of talking; but we practically find that if they are kept at real, earnest hard work, their finer imaginations soon disappear, 'their spirit is subdued to that they work in,' and not only burglaries and highway robberies but even petty thefts are soon at a discount. It is true that at Stoke horses are kept, and the land is ploughed instead of being dug. This may give the boys lighter work, and may dispose them to talk more than in other reformatories; still I think that John Fay has a brilliant imagination, and that he would be improved by work enough to send him thoroughly tired to his bed. Had you known Parkhurst in its boys' prison days, I think you would not have quoted it as a place where boys did not talk mischief.

I must not leave the impression, however, that we reformatory managers care not for the reformation of the mind and heart of those entrusted to us. We do, indeed, our best to give them industrious habits and sound religious principles. How far we succeed in the latter cannot be known to mortals, but the list of all those who, in the last thirteen years, have gone forth to the world—few of whom we have even now lost sight of—is encouraging. God forbid that we should be careless of this matter. Yet important as it is—whether we take it as mere citizens or as Christians—the reformation of 1,200 children per annum (about so many are committed to reformatories), important as it is, is but small compared with the saving of 6,000 per annum from the commission of crime; and by this amount was juvenile crime reduced in the first four years of the reformatory system.

LORD NORTON'S PROPOSED BILL ON REFORMATORIES.

May 16, 1881.

If I rightly understand Lord Norton's proposal, it is that a boy who has committed a crime should be first sent to prison to 'complete his punishment by a magisterial sentence,' and then be removed to a boarding school to which no punishment or disgrace should attach, where he should receive a good mental instruction, and be so returned to the world with his fault atoned

for, and without any stain upon his character, and entirely on a par with those who have never done wrong.

Now, I fear I cannot agree with all this. If a false principle on one side has unhappily been generally accepted, it may appear that a principle, false in the opposite direction, may afford the easiest remedy, but it will not be the most lasting or the most effective.

It has been urged, strongly in Scotland, and to a less degree in London, that if a man or boy has once been in prison he is stained or branded for life, and can never again obtain honest employment, and must be driven back to crime.

Of course, this is not true; were it so the number of our criminals would be ten times greater than it is; but the statement constantly repeated by those who take the kindest interest in prisoners, coupled with the anxious desire to keep the truth in such cases concealed, disposes *many* of the public to be afraid of employing men, said by their friends to be hopelessly branded; and to be jealous of having the truth carefully kept from them; and instead of the right course of employing such men in places of little or no trust, at lower wages for a time, and gradually, after some years of honest life, trusting them more, they unthinkingly refuse all help to any whom they know to have been in prison. This is the feeling of many, though by no means of all; but it is sufficiently so to cause occasionally some trouble to discharged prisoners, many of whom don't like trouble.

The remedy which has been adopted—viz. the concealment of the fact, and the encouraging a discharged prisoner to obtain some place where his character is not known, and the instructing the police to aid him in his suppression of truth—was exactly the cause which led to the serious, though grossly exaggerated, evils of the old ticket-of-leave system before 1865, and does not appear to have anywhere answered very well.

But let us look at Lord Norton's proposal that a boy should complete his punishment by imprisonment before going to school.

I have always advocated a short imprisonment before a reformatory, not in order to complete his punishment and wipe off the debt due to society, for this cannot be done except by a voluntary course of good conduct while at liberty, but to impress

on the boy's mind the feeling that he has done wrong, and to prepare him to receive readily the milder discipline of the reformatory.

This discipline, however, though scarcely to be called penal, must be essentially different from the mere mental instruction of the ordinary school under the Privy Council. The teaching a habit of obedience, of steady labour, of trustworthiness, as little by little more trust is reposed in him, the constant watch, not only in the school but at labour and at play, all are of far more importance for our boys than the mere mental instruction ; while the careful watch, with power of recall, maintained for years after a boy has left the school, is of still greater value. I have no doubt the Privy Council inspectors would be able in due time to learn to superintend either this work or the teaching boys to groom horses or tend steam-engines, but it would be a branch of work hitherto entirely new to the office.

Secondly, a boarding school for criminal boys, to which no punishment or disgrace shall attach, I hold to be impossible, and wrong if it were possible. We cannot and ought not to separate disgrace from crime. The crime may be very small, and the disgrace should be then very small, but it should exist in proportion to the crime. We shall do little by changing the name.

We may call it an industrial school, or a boys' home, or an asylum of virtue, but if it be known that only boys who have committed crime are sent there the public will care little for the name. If we succeed in concealing the difference between the schools for the lighter and heavier offences, we only spread whatever disgrace ought to exist over the whole of the schools. Is this right or honest ? But I would ask, Is a system which is based upon concealment of the truth a good thing for a boy's moral character, or likely to answer in the long run ? In Scotland there appears always to have existed the strongest objection to the truth of a man or boy's misconduct being known in his after-life. In London the same feeling has always been strong, though far less so than in Scotland. In Liverpool and in other large towns it is somewhat less strong ; and in proportion to the desire for concealment in all these places appear to be the difficulty of obtaining work for discharged prisoners,

and the lamentations over the cases in which the truth is found out. Throughout the country generally, the wish for concealment and the difficulty of obtaining work are far smaller; while in this county of Gloucester, where great pains have been taken to *avoid any concealment* in the case of reformatory boys for twenty-eight years, and of all discharged prisoners for the last six years, though in hard times a few of the latter may have irregular work, they are nearly as much employed as 'the unstained,' though, rightly, not in places of trust, until they can show some years of steady good conduct; while of the former we seldom have to keep a boy above a month longer than the earliest time that we consider him qualified for a licence.

I believe the true system to be, that we should teach those who have more or less done wrong, that, though we punish in some degree by imprisonment, it is not to be in place of or to lessen *the natural and proper punishment* of their offences, viz. the feeling that they have more or less lost or injured their good character, and that they themselves must regain or restore it, as it can only with truth be regained or restored, by their own good conduct.

One great advantage of such a course would be that the police could then be employed in finding places of work for any, whether young or old, who required such help. In this county we find the greatest advantage from this practice, but it cannot be carried out while keeping secret the antecedents. Police are indeed in most places ordered to shut their eyes to fact, but they cannot take an active part in helping discharged prisoners, old or young, unless they are allowed to tell the truth. It may be said that I am 'mixing' two subjects, that reformatory licensees and discharged prisoners, being boys and men, are essentially different. I can only say that from fifty years' study of both I can find no marked difference. I have found many boys of twelve or fourteen with as clear a knowledge of right and wrong, and as resolute and stubborn as ordinary men, and very many of our prison population as weak and ignorant and as much the victims of a bad education or of a deficient or perverted mind as any of the boys, while, above all, the effect of encouraging them when they regain liberty to tell the truth and conceal nothing has had equally good success with both.

Holding these opinions, I cannot support Lord Norton's Bill.

We are told that it injures a boy's or man's self-respect to have the truth known. I hold that a man or boy who has committed more or less of an offence ought to feel that his self-respect is more or less lost, and that he must seek earnestly by his own good conduct to regain it. A self-respect that depends on concealment and dreads being found out is a most pernicious delusion.

Good
ON WHAT HAS COMMONLY BEEN CALLED A PENAL
REFORMATORY.¹ X

I HAVE been asked to write a paper on my ideas of what is commonly called a Penal Reformatory. The name is a bad one, and many will object to it, as simple punishment is by no means its chief object; but as this is the name by which it has been spoken of and written on, though, alas! never carried into action for at least twenty-seven years, and by which it is generally known, I will leave it to others to find a better name, and meantime I will speak of it as a stronger reformatory.

There is no doubt that a school of this kind would in a very few cases be a most important advantage to the reformatory system. There is, too, I fear, little doubt that unless it is carefully guarded it would be liable, as most good things are, to abuse. It is never safe at the beginning of a work to pretend to define how far a principle or the check on it should be carried. We should make the best guess we can, and let time and practice correct our first ideas.

Nearly forty-nine years ago a lady first taught me what might be done by reformatories. I have ever since carefully cherished her instructions, and have found them thoroughly true. One of her principles was that, as a general rule, it is Nature that makes boys strong or weak in mind and will; it is education that makes them good or bad. If a boy is by nature weak in mind and will, though education may in some degree

¹ A paper by T. B. Ll. Baker, 1885.

strengthen him, he rarely if ever becomes eminent in good or evil; and though he may with comparative ease be directed into a good course, and continue in it, if no strong temptation occurs, yet he is always liable to relapse. If Nature has given him strength he may be very bad, but he is never really incorrigible. It may be very difficult to reclaim him. I may fail with one with whom you would have succeeded. You may fail with another with whom I might have succeeded; but the failure occurs, not because the boy is incorrigible, but because you or I have not gone the right way to correct him; and if a strong-willed, hard-determined boy is once conquered, and his energy turned in a right direction, he is likely to be an eminently good and useful man, and far less likely than a weaker one to yield to any temptation to relapse.

At the same time, although these boys are, if we conquer their evil dispositions, far more pleasurable to look back to than the weaker boys, yet they frequently do so much harm to others before we can produce any good effect on them, that for the sake of the other and weaker boys it is very important to get rid of them.

But how to get rid is the question. There was, I grieve to say, a practice formerly permitted, even favoured by some authorities, of simply discharging a boy whom the superintendent was unable to control, and allowing him to go off triumphantly, showing the other boys that they may obtain liberty by ill-behaviour. I can hardly imagine a remedy more mischievous in theory or practice. Even if their release could be kept secret, it would neither be honest nor wise to avail ourselves of the subterfuge. But such a practice cannot be kept secret. News of that kind flies rapidly, not only through the one reformatory, but through the evil-disposed community, and is magnified as it spreads. A few cases of such a triumph of evil are sufficient to spread widely an opinion that any boy committed to a reformatory, who has the pluck to do it, may give trouble enough to the superintendent to make him glad to be rid of him, either by sending him to some similar reformatory where he may behave equally ill, or by allowing him to abscond without attempting to recapture him. In either case a wrong is done to society whenever it becomes known that crime has

triumphed over law, and we may be pretty sure that the boys in the same reformatory will be for a time the more troublesome in consequence. As yet there has been no visible hindrance to the triumph of a determined boy; for the mere committal to prison for three months rarely has a very deterrent effect. But if a stronger reformatory were established, although the boys there need not be made unhappy, yet the name of a more powerful obstacle before them would not only discourage the leaders in ill-behaviour, but the seeing them removed to some unknown place of imagined severity would be a strong deterrent to the others.

Again, we may ask some other reformatory to take a troublesome boy. We have taken above thirty boys whom others found it difficult to manage, not because I thought my own skill superior to that of others, but because one may succeed where another has failed, and I wished to take every chance I could of saving a boy from crime. But though some have turned out well, and though it is a very great pleasure to see a boy who has been thought incorrigible living many years after as a steady, God-fearing man, yet the satisfaction of one's own pride may be dearly purchased by the less apparent amount of harm done to many others by the bad example of that boy while in the school.

The transferring a very troublesome boy from one school to another is in many points objectionable, though we willingly endure much that is objectionable rather than allow a failure in the reformatory system. The boy is usually kept for half his time before the first school gives him up. Then, especially if the sentence is only for three years, the second school has first to subdue him, to show him that there is a stronger power than his own, and then to win him by kindness to a better feeling; but the time is not sufficient for this, and above all will not allow for what I hold to be the most valuable part of reformatory treatment—viz. the conditional liberty under licence, or, as the Americans call it, 'on parole,' with the power of recall at any moment. If he were transferred to a school of stronger discipline, the subduing at least would be more rapidly effected.

We cannot define the amount of evil that should entitle us

to apply to have a boy removed from our average reformatories to one of greater strictness, but we probably have all had one or two who, not for the sake of saving us trouble, but partly for the sake of others, still more for the sake of the boy himself, require a stronger, firmer treatment than can be given in ordinary schools. Such cases, however, ought to be rare. A reformatory manager or superintendent is, by the very office he undertakes, expected to be able to deal with boys who give much trouble; but there is as much difference between boys as between men, and as the average of boys sent to a reformatory clearly require a treatment which it would not be right to apply to the children of an ordinary village school, so there are a few, very few, who require a stronger discipline than it would be desirable to use in an ordinary reformatory.

I will not pretend to say what should be the form or the rules of such an establishment as would be required for this purpose. I believe it would be wiser to begin with no rules, but with very careful inspection, and to find out as the work proceeded what rules were required.

A superintendent, kind, yet firm, who would undertake the work more for its own sake than for its pay, would, *if he succeeded*, be worth a high salary. He ought to have a strong and trustworthy staff in proportion to the number of boys; a far larger number than ordinary of cells, in which some of the worst behaved boys might usually sleep; perhaps a grading in three or four classes with different degrees of liberty and comfort attainable by good conduct, as is practised with good effect in some of the newer American prisons—any or all of these might be desirable.

This would require considerable additional expense, which ought to be met without difficulty.

If we want to gain the permission of Government to make an improvement, I have always found it is much more easily obtained if we find the money ourselves; nor in this case should it be difficult to do so. If a boy is so serious and evil in one school, that he ought to be removed, it would be well worth the while of that school to pay, if required, even six shillings a week for his removal, though probably a smaller sum

would suffice to pay the additional expenses of the increased staff of the proposed establishment. This may at first appear a serious loss—yet even six shillings a week, if so much were needed, would be no more reduction of the funds of the school than would be caused by two empty beds; and I believe it would very rarely be found necessary to send away above one boy, as the fact of sending one to ‘the dread unknown’ would have a salutary effect on the others.

This last is an important point, to which, in dealing with crime, whether juvenile or adult, enough attention is very rarely paid, though of late it is becoming more thought of—viz. the value and proper use of deterrence. Some look upon it as a hard and unchristian means of lessening crime, and imagine that it can only be made available by great severity of punishment. Properly used, it is only the exact opposite and antidote to that temptation from which we are especially taught to pray for deliverance. It may, indeed, be misused, so as to give great pain with but little result; but it may, on the other hand, be so used that the dread will be great, while the pain, when it comes, is very slight. The reformatory system itself is an instance of this, and was so still more in its earlier days. As we all know the life led there is by no means an unhappy one, unless a boy himself makes it so, yet, when at the beginning of the work we had to deal with London boys—four or eight times convicted—hardened in crime—who cared nothing for imprisonment, the very mention of a reformatory actually terrified them. Why was this? They knew that there was no severe punishment, but they knew that they would be kept there long enough to prevent their continuing their habit of crime. It was simply the dread of finding something too strong for them; something that, however gentle in itself, would take them out of the wild life they were determined to follow. Many have told me that when they came to the reformatory they were soon very happy there, but they confessed that their dread of it had been extreme.

I feel confident that, if such a reformatory as I have faintly shadowed out were established, the dread of being sent to it would reduce to submission many a foolish boy who now feels

that, do what he will, there is nothing worse in store for him, yet if he were sent there he would after the first few days be quite as happy as before.

Let me conclude with the words which an eminent French Senator has lately used : 'Thus would be obtained the double characteristic of all good repression of crime—*the minimum of punishment with the maximum of intimidation.*'

VIII. VAGRANCY.

TO THE GUARDIANS OF THE POOR OF GLOUCESTERSHIRE.

November 23, 1865.

SOME months ago I took the liberty of addressing you on the subject of casual poor and vagrants, and my suggestions were generally most kindly received by your Chairmen, a large portion of whom express themselves favourable to the adoption of the proposed system. Absence from home and the pressure of other business have prevented hitherto my following up the subject.

The time has not, however, been lost. I have had opportunities of consulting men of experience in many counties, and can recommend with a greater confidence the plan which I then suggested.

Public attention has recently been called to the working of some portions of the Poor Law system, and has manifested itself so strongly as to show that considerable changes must ere long be made. Pardon me if I go back for some years to consider what was the original intention of the law, and how it has been carried out. The great principle of all the Poor Laws from the 43rd of Elizabeth to the present time has always been that every man has a right to claim from the parish in which he may be sufficient of the necessaries of life to keep him in health; but in order to prevent men from living in idleness on the labour of others, the parish officers were enjoined to couple this maintenance with such labour and restriction as should, if possible, make them find self-support to be the easier and pleasanter course of the two. Many of you will remember that

in the earlier part of this century this intention was badly carried out, and poor rates rose to an alarming extent. In 1830 the poor rates at Uley amounted to 18s. in the pound on the actual value of the land, and the poverty and distress was greater than any I have ever seen in England. My father took the matter up, reverting to the original intention of the Poor Law by giving necessary food to all who required it, but coupling that relief with hard work and restrictions, and by 1833 the rates were reduced to little more than one-third of their former sum, and the poverty and distress was greatly lessened. In 1833 the new Poor Law was introduced, founded in no small degree upon the example of Uley, and, if not upon the whole an entirely satisfactory measure, it has been an enormous improvement on the system which preceded it. With regard to vagrants, however, there always appears to have been much difficulty. They had a right to claim relief at any work-house to which they came. They represented themselves as making their way to some distant town in search of work, and the master of the union had no means of testing the truth of their account of themselves, and large numbers slept in work-houses every night, and begged, stole, or at any rate idled, all the day.

In 1848 the Poor-Law Board published a minute, observing: 'There is obviously a wide distinction between those who are temporarily and unavoidably in distress and the habitual tramp or vagrant who simulates destitution; and one of the worst results of the present and indiscriminating treatment of all who are commonly denominated "casuals" is that some of the most fitting objects of public charity are subjected to the discomforts which were intended to repel the worthless.' Experience has shown 'that the roughness of lodging and the coarseness of fare, while they inflict undesirable hardship on the really meritorious and destitute wayfarer, *do not counterbalance the inducements which the certainty of sustenance and shelter holds out to the dishonest vagrant.*' The Board, however, did not give any rule for discriminating between the two classes, and the relieving officers in most cases adopted the simple, though illegal, plan of refusing relief to all. This, however, though it slightly lowered the parish rates, did not answer its object; it was

known that the legal relief was commonly refused, and that even the honest travellers could not exist unless they were relieved by charity; occasional deaths from starvation occurred, rare indeed yet sufficient to make people feel that each applicant for charity *might possibly* be an honest traveller in destitution; they consequently gave to all, and the number of tramps and vagrants has increased up to the present time; those returned by the police in 1858 amounting to 22,559; those of the next year to 23,353; then 22,664—24,011—29,504—33,182; and in 1864, 29,214.

In the last few years the Poor-Law Board have found it necessary to interfere. They have declared that the law of England must be obeyed, and that the necessities of life must be given to all vagrants; and I believe that every union of this county acknowledges the necessity of relieving vagrants, though some have only recently done so.

But the right and necessity of this law have been asserted of late most strongly, although in matters unconnected with vagrants or with our county. The houseless poor of London have at length had attention called to their wants. For a long time the London guardians refused to relieve any applicants whose cases they had not examined, and the consequence was that numbers of wretched outcasts were to be found through the whole of a wet or cold night vainly seeking admission at the workhouse door, where they had the legal right to receive relief, but were illegally refused it. This went on for year after year; the public bore it for long, and subscribed large sums to do by private charity that which the law required should be done by the rates. As usually happens, that which was done by irregular and illegal means did not answer so well as it would have done if the law had been carried out. The great principle of English law was known to be that every destitute person might claim relief from the parish, but that it was the duty of the parish to find such labour or restrictions as should prevent the idle from living upon the honest and hard-working. The Poor-Law Commissioners have now taken the step of stating that the law of England shall be carried out, and that any destitute person, however idle, however bad he may be, has still a right to claim of the parish authorities the necessities of life;

although, on the other hand, those authorities have the right to couple that relief with such labour and restrictions as shall prevent it from being fraudulently made use of.

I think that the guardians of our county will feel that it is more desirable to take a lead in the right direction than to have it unwillingly forced upon them, and if a mode can be suggested by which the course may be carried out of giving relief to all destitute persons, yet without encouraging idleness and carelessness, I cannot but hope that it might be, at least, fairly tried. There are three great classes who apply for relief—first, those belonging to the neighbourhood, whose characters are known; secondly, the small number who are travelling from town to town in search of honest work, or who, being disabled, are returning to their own parishes, where they have friends; thirdly, the large number who prefer a life of idleness, beggary, and vagrancy to honest work. On the first I do not propose any alteration, but for the second and third I think a great improvement may be made.

The man who is really travelling in search of work will be desirous to get to his point as quickly as possible. The disabled man or the widow and children returning to their homes will have the same desire; but the true vagrant's wish will be to loiter as slowly as possible through the country, that he may have time to call at every house, where he may represent himself as belonging to the second class, and get help by beggary.

The present custom is to receive a man into the workhouse, to give him his bed without supper, and to give him four ounces of bread in the morning on condition of his doing two hours' work. The honest man cannot possibly exist upon this; he has only the alternative of begging or starving. Of course he begs; and he too often finds this to be the more agreeable mode of living, and he becomes an habitual beggar.

This is just the point which requires alteration. We want to help the few honest travellers, and to discourage the large number of tramps. A system might be adopted, with very little cost or trouble, which, I am encouraged by the opinions of many practical men to believe, would attain this result.

If every man applying for relief at a workhouse were to receive what the law of England entitles him to, namely, lodging

and sufficient food, and if this fact were generally made known, the charitable public would be less disposed to give to mere beggars. If he were given on leaving the workhouse where he had slept a small slip of paper, partly printed, which would give little trouble to the master—

		Union, Nov. 26, 1865.
Name	Thomas Smith.	
Height	5 feet 6 inches.	
From	Birmingham.	
To	Plymouth.	
Behaviour	Good.	
(Sign. d)		A. B.,
		Master of the ——— Union.

—this pass would, at any rate, show what line of march he professed to have taken, and how far he had come in the day. It must be left in a great measure to the masters of the union, or to the police, who in most cases act as relieving officers for vagrants, to decide whether he has walked a sufficient day's journey towards his destination. A strong navigator in search of work would walk above thirty miles; a cripple or a woman would be able to walk but a short distance, but a little practice would show the amount of a fair day's work; and a fair day's work done in the stated direction should entitle the traveller to lodging and proper food without any additional labour. If a man be really travelling in search of honest labour, it is useless, nay, it is an injury to the public, to call upon him to spend in stonebreaking that strength which ought to carry him to a place where he can support himself honestly.

But, on the other hand, if a man applies for relief at a workhouse without any evidence to show where he has come from, or how far he has travelled in the day, he should be compelled to do four hours' work, or be sent to prison.

If this were carried out by all the unions of a considerable district, it would greatly assist the small number of honest travellers, to whom it would give every facility they could well desire; but it would be fatal to the regular vagrants, who would not be able to endure either the walking a long distance in a fixed direction every day, or the necessary four hours of steady hard work each morning.

If this system were carried out, as I am encouraged to hope

it may be, by the different unions of the country, it would be most desirable to obtain the aid of all the county newspapers to make known the fact that the legal and necessary relief is now afforded, and that giving to beggars is not only unnecessary, but is an absolute injury to society. An excellent mode of publishing this fact would be also afforded by the chairman of each board of guardians requesting that each member of the board would make the fact well known in his own parish. With these aids, and with the cordial assistance of the police, which I am assured would be readily given, I have little doubt that we might diminish that most irregular army of tramps and vagrants, to the number of somewhat like 30,000, which is now preying on our country.

It is impossible in suggesting a new system to answer in a single letter every objection which may be made. I can only say that if any of the chairmen of the unions of the county (with most of whom I may boast to be on terms of acquaintance, and with many on terms of friendship) will state to me, either publicly or privately, any objections or difficulties they may find, I will do my best to answer them; and if they show that I am wrong, I will readily confess it, and be obliged to them for doing so.

VAGRANCY.¹

You have inserted from the 'Morning Post' a very melancholy article on vagrancy, stating the evils, but suggesting no remedy. Will you permit me in reply to give an account of some measures which, fourteen years ago, were found to have good effect whenever they were tried, and which would have answered far better had they been more extensively and regularly adopted, and most of which went for very little in the trial?

I do not pretend to understand why at certain times the numbers of vagrants so largely increase or diminish; but that they do so to an extraordinary degree is shown by the history of the last twenty years. The Local Government Report shows

¹ Letter to the editor of the *Local Government Chronicle*, February 6, 1882.

(Table 67) that on January 1, 1861, the number of vagrants who slept that night in workhouses in England and Wales amounted to 1,179; but in January 1867 there were 3,566, and on July 1, 1868, there were 6,053, dropping again in January 1870 to 4,147, and in July 1873 to 1,987. In July 1880 it had again risen to 7,041. This uncertain rise and fall is a misfortune; as when a great rise occurs people are frightened, and make new plans in a panic (and panic legislation is rarely good), and when the numbers decrease the plans are all neglected, and no more is thought on the subject till the next rise.

We should remember some principles. First: That our reason for wishing to diminish vagrancy is not the cost of it, which, if we examine it, is really very small, somewhere about one three-hundredth part of the poor rate; but it is the evil of accustoming a large number of our fellow-creatures to a life of temptation and eventual misery. Secondly: Not only that 'if none were to give to beggars, none would beg;' but also that we cannot, by any law or by any punishment, prevent the public from giving; but we may, to a very great degree, prevent them, if we can clearly show and make them understand that the beggars are not starving, but have an ample supply of food. Thirdly: If we are to deal successfully with a wandering class, we must have somewhat like uniformity of action. This, so far as magistrates are concerned, may be gained without much difficulty by a recommendation of quarter sessions. Boards of guardians are far more difficult to bring to uniform action; but we may hope that the conferences now extended over England (which, indeed, were in the first place commenced in 1868, with the view of getting simultaneous action against vagrancy) may lead to combined action now.

In the county of Gloucester, in 1868, we first, with some difficulty, persuaded all boards of guardians to give a fair and adequate amount of food to all vagrants—which had not been previously given, but which has since been universally ordered; and next, our police took great pains to post handbills along all the roads, in the villages and towns, in shop windows, &c., explaining the amount of food which the tramps had at night and morning. Notices were sent also to all the clergy, most of whom took some pains to explain the matter to their parishioners,

and to show them that there was no need to give to beggars. It was then, and doubtless is now, the very poor who gave the most to beggars, and it is therefore to the poor that we must chiefly address ourselves to prevent the evil ; but by handbills, and by the help of the clergy of all denominations, a strong effect may be produced—though this, like all other good impressions, will require occasional renewal.

We next established a system of way tickets or passes, with the view of making each vagrant walk a fair day's journey towards his destination ; and if he did this day after day in a direct course, he was excused from his task of work. This system was spreading well through many counties, but was put a stop to by an order of the Poor-Law Board in 1872—that an exact uniform task of work should be performed by all vagrants. Colonel Blandy, however (the Chief Constable of Berkshire), established a nearly similar system in that county, which appears to have answered well for a year or two, when it was put an end to by the apathy consequent on a decrease in the number of vagrants ; but in 1878 he again got the attention of the county to the subject, and I understand that it is acting well and has been taken up in Wilts and several other counties, and I trust may spread much farther.

Another important measure was first adopted in Cumberland, I think in 1868, by the court of quarter sessions recommending to justices that for every case of begging clearly proved a fortnight's imprisonment should be awarded ; but if the begging was accompanied by threats or intimidation, it should be for one month. We adopted this at our Trinity quarter sessions, 1869. There was some apprehension that the gaol would overflow, and that the vagrants would be rendered desperate by harshness, would overcome the police, and commit terrible atrocities ; but none of these things happened ; the police took the matter up admirably, they patrolled the country in plain clothes, and in a very short time a beggar was a rarity in the county, except at Cheltenham, where, as in all 'pleasure towns,' idle rich people will tempt idle poor people to their destruction. The effect of this measure has not been lost to this day. At times, on one road or another, a swarm of beggars has appeared ; but it is speedily stopped by the police. We are told that, in some

counties, a large proportion of the indictable offences are committed by vagrants; in this county, we take great pains to get the antecedents of all our prisoners for trial (at the assizes to be held to-morrow there are twenty-three prisoners, and of all but one we have the history, for five years or more), and I think I can say that not one in ten is of the tramp or vagrant class.

Nothing is so much required as co-operation between the quarter sessions of different counties and the boards of different unions, and a willingness of these bodies to work together. An inferior system widely adopted is more effective than the best plan carried out in one or two unions. Harshness to the beggar must be carefully avoided. A good grievance that will enable them to tell a pitiful story is a fortune to them.

I rejoice to find that separate rooms for vagrants are becoming far more common than they were. They are a great comfort to any honest poor man on his travels; but they greatly detract from the pleasure of the idle vagrant, yet he can't make a grievance of them. The only objection to them is the expense of building, and I believe this would repay itself before long, while the benefit in diminishing the spread of evil among the vagrants would be very great.

VAGRANCY.

March 3, 1882.

IN discussing the question of vagrancy, I think we should first consider what is our real object; and secondly, what are the means to obtain it.

First, then, although in dealing with the money of others we ought to take care that not a shilling of it shall be wasted, yet we can hardly call the saving of *two shillings in every twenty pounds* of the ratepayers' money a very important object, and if my calculation is right, this appears to be more than the whole cost of vagrancy at the highest. The sums obtained (equally from the ratepayers) by begging form a far more important item. Although in this county they appear to be, and probably are, less than in other places, yet as the sums found on those arrested at different periods of the day average about

fivepence, we may fairly suppose that had they begged the whole day they would have averaged tenpence each. Even this, if we considered only the vagrants, would scarcely make the district poorer by the amount of five shillings in every 20*l.* of poor rate, but is the greater evil as being taken from the few instead of the many, and generally, I believe, from the poorest, who can least afford it.

The present Lord Derby, when Lord Stanley, wrote many years ago: 'The begging is a heavy tax, which will not come into statistical calculation, put upon the people of the country. But whereas we all wish to have a tax as fairly levied and spread over as large an area as possible, here the tax is levied most unequally and unfairly, and thrown almost entirely upon that class of kind-hearted people whom we should most particularly wish to spare.'

But there is a third object which I think is far more important than either of the former, and well worthy of our best care and attention. Although we have but little means of estimating their numbers, we can hardly doubt that there are at least ten thousand of our fellow-men led by temptation into a miserable life of idleness and fraud; and while we pray not to be led into temptation, we are bound to do our best to lessen to others that which we ourselves wish to escape.

If so, we should take as our principal object 'the saving poor men in want from the temptations to an idle, wandering life.'

But if this be assumed to be our great object, the class who are technically termed vagrants—i.e. who are found in work-house wards—are in a less dangerous state, as well as less injurious to the public, than those who live by begging, sleeping in the tramp lodgings, or under our ricks, and subject to no watch or control; and it is this latter class that we should chiefly seek to reduce. It would appear difficult to do so so long as they travel along roads as open to them as to us, and pay for their own support at their lodgings, and so long as we do not find them transgressing the law of the land. Begging, however, is a transgression of the law, and we may justly punish them when we catch them, but it is only a very small proportion that we can catch. As Admiral Christian has well said: 'One of our greatest difficulties is the large number

of these people going to the lodgings, where you can have no control over them.' If this be true, as I think it is, we should direct our attention to the lessening the numbers of those in lodgings, rather than of those in workhouses.

Our Chief Constable has just taken a census, in most parts of this county, of the vagrants and tramps found on a single night; requiring the latter to state their occupation, given in one column, while in the next the police give their opinion how far they believe such statements to be trustworthy. Such a return, although, as depending on the opinion of the police, it cannot pretend to statistical accuracy, gives in the main a tolerably sound basis for an estimate, as an experienced superintendent or sergeant of police will, on the whole, be pretty correct in his judgment of the truth of such statements.

The return has, I confess, surprised me. Out of 509 persons found in the lodgings, 360 were either poor people residents in the parish, or *bonâ fide* travellers, and only 149 were believed to be begging tramps. Only five men and six women professed to be 'of no occupation;' but 138 others were suspected to be so.

I strongly suspect that the small proportion of beggars found in this county is due chiefly to the measures we took in 1868 to assure the public that every poor person who chose to apply to a workhouse would receive sufficient food and shelter for the night, without any cruelty, or even hardship, and, if they showed by their tickets that they were really travelling straight to a point, without any detention beyond an hour or two of work. From what I hear of other counties, I am inclined to believe that their proportion of beggars is generally much larger, though Dorsetshire claims to be a noble exception.

As I have said, we cannot punish persons for begging unless we can catch them; and although the catching and punishing a few will do an important amount of good, it cannot do all. But, if we can act upon the public, and prevent or materially lessen their readiness to give to beggars, a very important effect will be produced; and this we know can be done, because it was tried here in 1868, and answered well, though we might try it more efficiently now.

The weapons of a beggar are his grievances. If he can

make the public believe that he is starving, or that he is subjected to some cruel treatment, or even hardship, shillings from the richer and pence from the poorer will flow in, sufficient to enable him to get drunk every night. Rob him of his weapons—show the public, and make them understand and believe, that the beggar is not starving, but has a sufficiency of bread without any hardship, except the making the best of his way to the point to which he professes to be going—and you at once deprive him of his plea. It is a sound maxim that the best way to prevent or defeat a lie is to make the truth known.

This making known the truth is not to be done without some trouble and a little cost, yet it is to be done, and is well worth the doing.

It appears that the numbers of vagrants rise and fall with what are called good or bad times, i.e. when work becomes scarce, and the worst hands are turned off, hang about the place till their money and credit are exhausted, and then foolishly go off with a vague hope of getting work somewhere in their own trade, and, not finding it, gradually fall into the habits of simple tramps, moving aimlessly from place to place, without care or hope beyond the day. This is a wretched and unwholesome existence, yet how can we forbid it? Some of them do find work elsewhere, and we can hardly say that all have not a right to try to do so. The refusing them this right would be going a step back towards the days when a man was punished for being found out of his own parish; a plan which did not answer, even in those days, and would be wholly inapplicable to the wants of a great commercial and manufacturing age, with its necessary fluctuations of labour; and besides, it would give the beggar a grievance, and thereby make his fortune.

But, on the other hand, we may give him every facility for going steadily from place to place in search of work, as a business, and yet prevent his life from being one that would be continued as a pleasure; and if we can succeed in this, a man will try to find work for a time, and if unsuccessful will return home, and take what job work he can, or failing that will go to the workhouse to wait till better times return.

The first measure I should propose to effect this would be the adoption of Colonel Blandy's way-ticket system, which has

been in successful operation for the last two years in Berkshire, and is now adopted in Wilts.

It is nearly on the same principle as the way ticket which we adopted in 1868—of giving some advantage to one who could show by his ticket that he was travelling steadily straight to a point; but whereas the advantage that we gave them was that we let them off without a task, the Berkshire plan is to give a luncheon of some kind (to be paid for by subscription) in the middle of the day. This is an important improvement; it is desirable that the fair travelling vagrant should have a meal in the middle of a long day's march, but it is of still more importance as depriving the idler of his grievance. Still, the mere luncheon is not a sufficient bonus to strongly induce straight travelling, and it would be highly desirable that, if the ticket system should spread, we should ask the Local Government Board to allow us to exact a considerably longer task—say six hours of work—from those who cannot or will not give this proof of their straight travelling.

The next point I should propose would be a simple renewal of the resolution of Trinity Quarter Sessions 1869, suggesting to the justices of the county the propriety of imprisoning all who are caught begging. The effect of this measure at that time was very valuable, and it still continues to a great extent; but many new justices have been appointed since then, and the addition of the luncheon, if carried, by taking away the last shade of excuse for begging, would give a fair opportunity for a renewal of the resolution.

The next measure I should suggest would be, to do again what we did in 1868, but even more efficiently—to address the clergy of the diocese and ask them to explain to their parishioners the truth as to the treatment of vagrants. I should like also to send a nearly similar address to the ministers of all denominations, asking them to explain the truth to their congregations, and to assist us in the work of lessening the temptation of an evil life to the poorest of all, and to save the class but little better off from being imposed upon, and giving away that which they can ill spare.

And, thirly, the chief constable should again be asked to do as he did most efficiently before, and to have handbills posted

throughout the county, explaining the treatment of vagrants, and requesting the public to give nothing to them.

Were these measures to have *complete* effect, a wanderer would find that he could get sufficient board and lodging on his journey to enable him to travel for a very long distance without any hardship, but without pleasure. The excitement of telling a good story and extracting some money which may furnish a night's drinking—the going from one workhouse to another five miles off and protesting that they had walked thirty miles—would be at an end. The adoption of separate sleeping and working rooms, whilst giving the greatest comfort to the decent traveller, destroys altogether the evil communications which form the pleasure of the idler. The very fact of having their whole route truly recorded, or, if they did not show it, the having to do six hours' work (or, as some recommend, thirty-six hours' detention), would effectually destroy the charm of a vagrant life; yet they would have no grievance wherewith to extort pity and money, because they would have all the necessaries of life without hindrance if they were honestly proceeding on their route. If this were the case, a man out of work—after perhaps travelling for a time—would return home to the workhouse of his union if he could do no better (but we know by experience that there are few who cannot do better), and the vagrants would be few, and, what is of far more importance, the begging tramps would cease to exist, and the 'lodgings' be left to the hawkers, musicians, or poor men travelling at their own cost, who now form a considerable share of the lodgers.

I say, 'were these measures to have their *complete* effect,' such would be the results. Of course I am not utopian enough to suppose that these or any other measures will have *complete* effect, but I think that those who watched the effect of some of them in 1868 will allow that they had considerable influence, and any degree of approach that we can make to the *complete* effect I have sketched, 'if not gained at too great a cost' (and the cost would be very small indeed), would be desirable.

Although the vagrants in our casual wards are some trouble, and a very small expense to the rates, they are not nearly so important an evil to the country as the begging tramps who sleep in the lodgings, over whom we can have at present no

control. But if, by preventing these from obtaining any money by begging, we can compel them to come into our vagrant wards, as we are told has been done in Dorsetshire, we may hope to reduce the class to a great extent.

It has always been urged that any measures employed against vagrancy, unless spread over a very large area, must be greatly weakened in effect. We should now, however, begin under more favourable circumstances than we have yet known. Colonel Blandy has had his way-ticket system in operation in Berkshire for three years; Wiltshire has now adopted the same. If Gloucestershire joins them, we may hope for one or two other counties; and a measure taken up by four or five counties is likely to spread rapidly.

THE WAY-TICKET SYSTEM.¹

FORGIVE my asking your attention to one principle of the way ticket, which was originally intended to be the very keystone of the whole, but which we have never yet had the power to carry out, and which I fear is likely to be lost sight of, yet on which the success of the whole system mainly depends—namely, that those vagrants who do not show by their tickets that they are travelling steadily towards their professed destination should do a longer task of work, and that this task should be gradually increased until it is found to have the desired effect—namely, that of making vagrants feel that any other work was more profitable and pleasanter than that of vagrancy.

The object we have to gain is not that of frightening vagrants away from one workhouse to another, still less the driving them from the workhouses, where we have them under some control, and where they cost little, into lodgings, where they are beyond our control, and where they cost the public far more; nor is the saving of 1s. 6d. in every 20l. of poor rates our chief object. What we want is just to render a vagrant life so undesirable that the poor, at least through England and Wales, shall not be tempted to take up vagrancy as a pleasant mode of existence. The temptation at present consists in the idleness, the

¹ Letter to the editor of the *Gloucestershire Chronicle*, December 6, 1882.

freedom from control, the power of following the inclination of the moment as to which path they shall choose, and the feeling that no one knows anything about them, and that they may give whatever account they please of themselves without contradiction, as no one can guess whence they come or whither they are going. These are pleasures to them, but unwholesome to themselves, and bad for the public; and we seek to prevent their being pleasures and temptations any longer, and the means of doing this are nearly within our reach.

At the same time we must remember that it is a large and important work that we have in hand, and that it requires and is well worth both care and patience. For five hundred years we have been battling against vagrancy, at first by the most terribly severe laws—whipping, branding, and hanging; and while the laws were the most stringent we are told that the roads of England were unsafe from the number of sturdy vagrants who robbed as often as they begged. The fact was that the laws were too severe; the public pitied the vagrants and gave them money or help, and though some were punished the greater part lived merrily.

But we need not look back to previous centuries. In 1867 the law was neglected. Many workhouses refused to receive vagrants at all, and many more gave none and very few sufficient food. The public knew this, and would not allow the vagrants to starve, and gave them help; and of course, when they did so, gave too much, and made such a life a temptation to them. In 1868 the average number of vagrants in the workhouses had increased to 7,037, and it was believed there was a still larger number of professional beggars in lodgings, and it was the common complaint that not only cottagers, but farmers' wives, when no men were at hand, dared not refuse to give to beggars. We in this county persuaded nearly all unions to receive them and give them sufficient food, and we made it generally known that this was done. The Poor-Law Board, too, ordered all the workhouses of England and Wales to do the same; the indiscriminate almsgiving gradually lessened; we heard very seldom of threats being used; and in 1871 the number in workhouses had lowered to 4,114, and in 1875 to 2,767; and although in 1880 the number in workhouses had again risen to 6,789, or nearly as high as in

1868, yet the opinion of the police was that the number of mere beggars in the lodgings was comparatively small.

Now, as then, the public, if they oppose the law—if they simply give money enough to pay for lodgings and food—can and will neutralise all its efforts. How, then, can we persuade the public to take our side? They are often ignorant, often wrong in their judgment, but generally kind-hearted and well-intentioned, and if we take care not rudely to oppose even their mistaken feelings, but to show them that reason and right are on our side, they will—not all at once, but gradually—take our view, and help instead of opposing us.

We have now to undo the work of five hundred years, to overcome old habits and prejudices, and to create a more just public opinion; and this is not to be done in a moment, or by a single law or order, but it may be effected in a very short time if carefully and gently attempted.

Our first object in point of time, then, should be to take away from the vagrants all danger of starvation, and even all unnecessary hardship that will dispose the poor to pity and relieve them. But it is to the well-adjusted task of work that we must look to reduce the number steadily but surely to any degree we require. An attempt to suddenly punish them for doing what for five hundred years has been a regular practice would create a flood of sympathy and halfpence; but if we only at first require a slightly increased task of work from those who do not travel fairly, the most sympathetic will not pity them. Yet even the alternative of a twenty-mile straight walk or three hours of stone-breaking would make the life of a vagrant far less idle and pleasant, and some would feel that they did not like it. At the end of three months let four hours and a half of such work as a vagrant could give (worth say 9d.) be required of each, and many would get tired of it, and one by one drop off. We cannot tell how long or how much work it would require to reduce the number very low indeed. This must be found in practice, but we may be sure that, having once found it, the same law would prevent mere idle vagrancy from ever rising again. I much doubt whether it would be right or politic to prevent steady travelling altogether. In a great manufacturing country we shall, I fear, be always liable to sudden fluctuations of labour,

and we must attain a higher state of thrift than we can yet hope for before all will be provided with money to travel when a fluctuation of work makes it desirable that they should do so; but it is unquestionably desirable that the habit of vague, idle wandering should cease to be pleasant and a temptation to the weak and thoughtless, and that for those who have some sufficiently strong motive to induce them to travel steadily (which would in itself destroy the pleasure of idle wandering) we should have evidence of their course, and should have some reason for condemning them if these are wrong. The way tickets, if properly enforced by a task of labour when they were not satisfactory, would furnish us with this evidence, and we then should have reason for controlling or punishing those who travel without sufficient cause. The public would support us in punishing with reason, but I do not believe that they will support us if we merely punish every one who asks for the aid to which for many years the law of the State has given him a right, and in consequence of which law indiscriminate giving has greatly decreased.

We can bring no evidence of experience as to the effect of our system, because we have never hitherto been allowed to try it. The Poor-Law Board's Order of November 1871, that all vagrants should do a specified equal task (though unhappily it proved in practice to be most unequal, and had to be altered in many places and remains unequal in others), prevented our trial of it at that time, and ever since. We have lately hoped that the Act of last session might, by giving us the power of detention, enable us to commute that detention into work. Simple detention is a bad thing, and, like crank or shot drill, excites strong public feeling against it. This is bad in the case even of prisons, when we have to punish men convicted on evidence of offences against the law—where the public have but little power to interfere, and where there is great difficulty in finding other means of deterrence. Detention, however, is far worse in the case of the vagrant, when we have no conviction on evidence (but entire ignorance of all about him), when his offence is not against the law but simply asking for the help to which the law has hitherto given him a right, and where, therefore, we have no right to inflict punishment; when the public have power to undo all we attempt, as they have done before; and when there is

no difficulty in finding unobjectionable means of effecting our purposes without it. But if, as I said, we are allowed to commute that detention into a longer and increasing amount of task work, we shall have every opportunity to carry out the work. This must depend on the action of the Local Government Board, and it is in their power to give us the most important assistance, or to put an end for the present to all trial of our system. But if in the latter case the new system should after another ten or sixteen years be found not quite satisfactory, some one may perhaps then try for a third time whether the way ticket may be allowed a chance. There are doubtless other difficulties which must attend any voluntary effort. Any single board of guardians may prefer to adopt whatever plan may appear best for their own union for the present time, not caring for the advantages of combined action ; but happily, so far as we see at present, such instances are extremely rare, and a remarkable desire for unanimous action appears to prevail in a large part of England.

IX. ECCLESIASTICAL.

THE CHURCH CONFERENCES.¹

CONFERENCES of members of the Church of England, both clerical and lay, are being held in most dioceses, and one of much importance has taken place in Gloucester. Some fears appear to have been entertained that the bringing together a large number of men of different shades of opinion and feeling might lead to an over-freedom of discussion, tending rather to widen than to heal the differences which, alas! have nearly, if not quite, assumed among us the form of party feeling, and it was therefore wisely urged that at so solemn a Conference no word should be spoken which had not been well considered, and that each speaker should be allowed to express his opinions without any manifestations of dissent from those who might differ from his views.

For my own part, I believe that the utmost freedom of discussion will tend rather to unity than to difference, because, if conducted in a true spirit of charity, men will learn to respect where they cannot agree, while even if—as will sometimes happen—the warmth of argument should exceed the bounds of charity, the speakers, it may be hoped, will, on reflection, heartily regret it, and be more careful and more tolerant for the future.

Will you, then, permit a simple layman to lay before your readers some thoughts and queries to which these discussions have given rise?

I would ask my friends to consider as clearly and as definitely as may be what is the object of our consultations.

¹ Letter to the editor of the *Gloucestershire Chronicle*, October 20, 1869.

Are we seeking to form a new Church, with new limits, new boundaries, new rules? Or do we wish to maintain that Church, with its limits and laws, which have been handed down to us by our forefathers, altering perhaps some portions, not by sudden outcry, not at the private instance of the few who may clamour for a change, but by a deliberate Act of the ordained leaders of that Church, with the consent of at least the chief part of its members? If the former, I can only say that I have misunderstood the object. If the latter—if we are to support our Church—let us consider what that Church is, not what one or another may think it ought to be, or may desire that it should become, but what it has been, and is, according to the testimony of 300 years. Has it ever professed entire unanimity in all things? Surely not. To do so can be only a vain pretence. As no two human beings can think exactly alike on all points, a Church, to be perfectly unanimous, must be unicorporeal also, and must consist of one man—i.e. must be no Church at all. Few will believe that even the Church of Rome, with its assumption of infallibility and its powerful discipline, can really exclude much variety of opinion, though it may for a time stifle the expression of dissent. But our Church of England has never assumed to fetter the reason of its members, nor to forbid the differences of opinion which the free exercise of that reason necessitates. She has, indeed, placed certain tolerably wide bounds on the one side and the other, and those who cannot conscientiously remain within those bounds she must with regret exclude; but those who keep within the limits, she considers as sons; and would that they should consider each other as brothers!

If there were a wide and spacious sheepfold, with choice of pasture for each to stray, north or south, within its sufficiently definite boundaries, ought that liberty to be made a ground of quarrel or ill-will? Even if some sheep, terrified by the roar of the lion on the south, crowded so dangerously near to the northern pale as to run some risk from the paws of the bear—or the reverse—would any wise or charitable sheep, instead of endeavouring gently to warn and win back a brother to a more safe and central position, hound the dogs on him as an enemy, and endeavour to drive him altogether out of the fold? Still less, while the sheepfold is menaced by wolves, would a wise sheep

take up the boundary, in order to narrow the fold and exclude a larger or smaller portion of the flock ?

So it appears to me to be with our Church. We cannot change the opinions of men by compulsion, though by a most hazardous change of limit we may exclude or include a new portion ; but as the shades of opinion are infinite, place the boundaries where you will, there will always remain an equal proportion near to the pale, and to narrow it will only exclude many without making the boundaries more definite.

For myself, if one must talk of self, I am almost inclined to agree with a friend who, on being asked what were his religious views, said that according to the present meaning of the words he had no religion at all, ' for he did not hate anyone.' Nature has excluded æsthetics from my composition. I can pray and listen as heartily in a whitewashed barn or an unwashed schoolroom as in a gorgeous cathedral. For my own taste, I care little for music ; I would decidedly rather not hear a service intoned ; and if painted windows prevent my old eyes from doing their office, I long for more light. Yet Heaven forbid that I should be churl enough to grudge to such as are differently constituted those pleasures which I cannot appreciate. Nay, I heartily reverence those evidences of good men having spent their money and thought in raising temples as meet for God's service as poor human skill can make them ; and I rejoice that they give great pleasure to others, though, except as such evidences, they give little pleasure to me. At the same time, I cannot admire the careful want of care, the studious homeliness, not to say ugliness, which used in my young days to be common, especially in the North ; though I heartily venerate that spiritual earnestness, that stern rigidity, of which such plainness is supposed to be the type. I am too old to care much for dress, and if the doctrine be sound and Christian, and therefore charitable, it is very immaterial to me whether the preacher be clothed in black or white. Yet I have my own opinions, and mean to keep them till I learn better ; and I cannot boast that I have not my own antipathies. If I hate any, it is those who quarrel about trifles. I grieve to see a clergyman quarrel with his flock because he prefers a white gown to a black one. I think it doubtless far more foolish for a flock to quarrel with

their pastor because they prefer a black gown to a white one ; but amongst a large flock there must always be many weak ones who cannot help squabbling about trifles, while a pastor has no right to be so foolish, and therefore is the more to blame. Nay, I do not hold that Christian charity is to be limited to our own Church ; and while I feel a deep debt of gratitude to those early reformers who translated the Bible, and, by the help of printing, placed it within the reach of the poorest, I can hardly feel less to those who, before the art of printing was known, were for centuries the guardians of the Scriptures through darkness and danger, and spent their lives in multiplying copies of them so far as poor handwriting could avail. As I have said, probably no two human beings could be found who would absolutely agree in all points ; but, on the other hand, I have rarely found any except the uncharitable with whom I could not work heartily in many matters, without bating one jot or tittle of my own belief or asking him to bate his.

With such opinions and feelings I could not, without deep regret, hear (that is, if my old ears did not deceive me) at Gloucester some implied wishes to remove and narrow the bounds of our Church—or, as others seemed to imply, to cut off more or less of our present Church on the one side in order to admit an equal or a larger portion on the other. To the latter measure, indeed, I have no objection. If we can, without giving up material articles of our doctrine, enlarge the number of those to whom we are bound, not only in Christian charity, but in the nearer ties of one Church, by all means let it be done. But ere we talk of on any side narrowing the limits, I would earnestly entreat my friends to consider well what they are about. What would be the position of those who are to be excluded ? They hold the faith, the doctrines, which have for 300 years formed part of the Church. So long as they continue to hold these doctrines, man may say that he establishes a new Church of England, man may say that he so places it as to leave some on the outside ; but those who so disturb the ancient foundations will be the dissenters, not those who stand fast ; and I sadly fear that if the landmarks of our faith are to be moved whenever an angry cry requires it, there will be little left of stability.

By all means let the leaders—the highest authorities of our

body—examine closely and carefully where those landmarks are, and have been for ages. If any of our brethren be found to have gone beyond them, whether towards Rome or Geneva, let them be warned, and gently recalled; or if they will not or cannot return, let them be sorrowfully dismissed by the recognised authorities; but let them not be twitted and triumphed over by those who have fed perchance equally close to the opposite pale. And let us beware how we seek to copy Rome in a vain attempt at a compulsory unanimity; nor let each one consider himself as Pope, and seek to excommunicate all who do not agree with his own assumed infallibility. Above all, let us remember that there appear to have been different shades of opinion even between St. Peter and St. Paul, and while we carefully seek out, and make clear, and earnestly maintain, the boundaries which have always separated us from the errors of Rome or dissent, let us beware how without long and grave consideration we alter those boundaries, or display a want of Christian charity to members of our one Catholic Church.

THE PUBLIC WORSHIP BILL.¹

NEARLY all shades of opinion on the much-vexed Public Worship Bill are represented in your columns, yet there is one large and important body—important in their vast numbers if not individually—whose opinions are seldom found there, but whose enormous aggregate weight gives them a strong claim to attention. I allude to the vast body of dull quiet men, whose ideas may not be witty or brilliant, but whose gentle quiet stupidity saves them from going mad on any subject. If you consider the weight of our enormous numbers, as compared with those who write strong articles in your columns, you will, I hope, not be indisposed to allow our claims to be heard.

Our race is not generally disposed to be angry or easily moved, but we must confess that we are deeply hurt and grieved by the feeling shown by many writers on both sides of the

¹ Letter to the editor of the *Wilts and Gloucestershire Standard*, August 22, 1874.

question, who each of them speak with less charity of those on the other side than we would speak of a criminal. One set of—not only Christians but Churchmen—talk of the other as ‘enemies’ who ought to be driven out of the Church; another set angrily refuse to obey those who are put in authority over them or to listen to decisions or orders unless the decisions or orders are exactly what they themselves think right.

With regard to the dresses, positions, and ceremonies, we, being dull and unlearned, do not presume to offer our own opinions, but are willing to obey those whom the Church has set over us, and who, though we do not believe them to be infallible, yet from their higher talents and deep study are at least far more likely to be right than we.

But these dissensions, these recriminations, these harsh epithets, applied by clever men on the extreme of one party to clever men on the extreme of the other party, fill us with grief, and, so far as our natures are capable of it, with anger. We know that it is not the body of the Church who use this language, it is only a few on the two extremes; but as those who are not angry seldom write, it appears as though all the Church were uncharitable.

Charity is a word understood in various ways: it used to mean giving half a crown to a beggar. That meaning happily is extinct. But it is still thought by many to mean giving 10*l.* to a hospital. I would, however, use it in the sense that ‘though I give all my goods to feed the poor, and have not charity, it profiteth nothing,’ in the sense of kindness and gentleness and goodwill to all. Cannot those, on the one hand, when they say that they are in accordance with certain ancient rubrics of the Church which they will maintain to the death, remember that custom long established and agreed to not only by the leaders but by the whole body has in, I believe, every civilised government the force of law? Or can they not believe, not only that their own individual judgment and interpretation of a law may be fallible, but that all laws written in human language must like all human things be fallible, and, therefore, that a special rubric has declared that, ‘as nothing can be so plainly set forth but doubts may arise in the use and

practice of the same, the parties that so doubt shall always resort to the bishop of the diocese? This does not assume that the bishop is infallible, but that all things may be done decently and in order; the power of direction has been given to one man, who is, to say the very least, more likely to be right than the average of the clergy, and, moreover, one whom they have promised to obey.

On the other hand, cannot the few on the other extreme feel what a pain and grief it must be to us dull men to hear not only brother Christians but brother Churchmen spoken of as 'enemies,' and to hear joy expressed at the hope of their being driven out of the Church—especially when those men, and women too, are doing some of the noblest and most self-denying work among the poor, the sick, and the unfortunate, that is to be found in these days?

It appears indeed necessary that a boundary should be defined on the one hand and the other, beyond which both forms and belief should not pass, and still be accounted as belonging to the Church. It is a hard and a painful thing to draw a rigid line. There is no such thing in nature. Winter passes into summer, and night into day, by such imperceptible shades, that no one can place a natural division between one and the other. Nor can an exact natural division be placed between the opinions of our Church and that of Rome on the one hand and dissent on the other; but inasmuch as the Church is a holder of property it becomes subject to such laws and definitions as rule other holders of property, and must have a clear and distinct boundary, beyond which if any one go he must understand that he leaves the Church—not that he is driven out, but that *he leaves it*, to the sincere regret and sorrow of all true lovers of the Church, who, though they may honour his courage and honesty, will deeply deplore his error.

Such boundaries on each side have been long wanting, and we are most thankful that Convocation will now shortly be empowered to decide where they ought to be placed. We only trust that their position will be decided, not according to the wishes of the few clever and energetic men on either extreme, but that some attention may be paid to the wishes of the great numerical majority of dull men, and that they may be as wide

apart as may be without including doctrines or practices alien to our Church.

We further hope that when they are so placed it may come to be considered a high offence against charity that those who prefer to travel, perhaps rather close to the pale on the one side, should speak ill of those who press unhappily against the pale on the other side, and should endeavour rather to win them back by kind reasoning than to force them over, as we fear that some valuable men on either side have been forced over, by harsh attacks.

Can we not bear in mind the immense benefits which our Church has received from 'rash innovators'? The Reformation itself was an innovation. When within a century ago the major part of the Church was sunk in sloth, the Dissenters and Low Churchmen, as they are now called, woke us up to life. Some excellent men—Wesley among others—were driven out of the Church by the bitterness and want of charity of those on the other side. Since then other excellent men have not only improved and increased the services of our Church, but have thrown an amount of self-denying labour into the care of the poor, the sick, and the unfortunate, that has been hitherto unknown; and some have been driven out, and some talk of driving more out.

But much as we may lament these unhappy dissensions, let us remember first that those who distress us by their quarrels are not the chief part of the Church, but only the chief part of the clever writers; and, secondly, that these very troublesome people, who grieve us by their ill-will to each other, are the very people who on both sides are doing the grandest works of charity; and, lastly, that all these quarrels that so distress us are at least better than a cold dead apathy.

Let us not then wish for less energy, but let us hope that the energy may be henceforth directed towards pressing forward each in his own duty to God and man in his own way, without taking offence at or hindering our neighbour, who is pressing forwards to the same point, though rather to the right or left of our own line.

X. EDUCATION.

TRAINING FOR AFTER-LIFE.¹ (I).

WHETHER people have much practical acquaintance with the subject or not, all are at present thinking, and many are writing, on Education. For myself, I have very little knowledge of that which is now commonly meant by education. I have had some practice in training the young to become better members of society than they would probably have been without such training, and have good hope that I may, amongst others, have been the means of sending some into the battle of life as honest, hard-working, and God-fearing men, who without such training would have been less successful ; but of that which is now called education, and comprised chiefly in teaching ' the 3 R's,' I must plead guilty to great ignorance. I should hardly, indeed, have ventured to write even on a cognate subject had I not lately met some eminent educational authorities who seemed to think that my notions, though odd, might, if they could be carried out, be worth a thought.

I was much struck very many years ago by an observation made at a meeting of the British Association at Oxford. A paper had been read on the effect, great or small, which education produced on crime ; and the writer gave most careful and accurate details of the number of persons able to read and write, and of the proportionate degrees of crime at different periods. When it was over one of the members said, ' Mr. President, I rise to order. This gentleman promised us a paper on education, and he has not said a word on that subject in the whole of it.

¹ Letter to the editor of *John Bull*, December 6, 1869.

He has given us, indeed, a valuable paper on reading and writing, and I believe some gentlemen consider this to be education. I should like to see any such when hungry set down to a table with a knife and fork on it, and then ask them whether they considered these to be a good dinner. Reading and writing for the lower class (and Latin and Greek for the upper) are most valuable as a means of getting education, but are not themselves education, and ought to be considered as a means, not as an end.'

However, in these days education, by the order of Privy Council, means 'the 3 R's,' and we must call things by the names which commonly imply them; so, you must remember that I am writing, not on education, but on—let me call it training for after-life.

Understand me, however, that I do not decry education. I entirely disbelieve the doctrine broached by some that the people would be better if less educated. I grant that here and there one who feels that he has been highly instructed, while his good father was sadly ignorant, will absurdly over-estimate his own knowledge and become puffed up and not improbably ruined by his own conceit. But this is the fault, not of the instruction, but of its too sudden rise. We do not find it in the country parts of Scotland, where many generations have been well taught, and shall probably not find it a generation hence in England.

But if I fully admit, on the one hand, that education, in the modern sense of the term, is of much value, I cannot, on the other hand, consider it to be the one only thing to be attended to in the training of youth for the work of manhood. I fear much that, if we kept records of the lives of all who have either attained the highest university honours or have been the show pupils of our national schools, we should find—with some grand success—many failures; while, among the school dunces, or, still more, amongst those who have had little chance of education, would be found many who have, somehow or other, in after-life, not merely turned out good and steady labourers (no bad thing by the way—far better than an unsustained success), but have risen to a sphere far above their origin. Most of these would, I grant, have been the better for more education. Many of them

regret the want of it ; yet it is enough to show that its absence has not prevented their utility in after-life so much as schoolmasters sometimes tell us.

Can, then, anything be done which, without materially interfering with education—i. e. ‘the 3 R’s’—will incline boys to look forward to the work of manhood, and will incline schoolmasters to remind them that if ‘life is not all beer and skittles,’ neither is it all reading or writing ?

At present a schoolmaster has nothing to look forward to beyond the annual visit of the inspector. If on that particular day (after a month’s preparation) the boys are bright and intelligent, the copybooks clean and well-written, &c., the master feels that his mission is accomplished. Some boys are soon about to leave, some of his neatest writers or clearest readers. He sighs to think that he is to lose them—that, instead of gaining high credit from the inspector, they will be merely driving the plough ; but now his work is over so far as they are concerned, and whether they henceforth prosper or fail is to him a matter of only sentimental interest.

My own experience has been in a school of a far lower order ; but we may all learn even from those beneath us. I have for many years managed a reformatory where my chief object has been not so much the reading and writing as the training how to earn an honest living. My mission, therefore, is not fulfilled when a boy leaves the school, but rather the anxiety—the test of training—then begins. At the commencement of the reformatory work—or at least when Government first began to recognise us—I claimed that we should be judged principally by our results, not by whether an inspector thought that our boys were likely to turn out well, but by whether they actually did turn out well for several years after they had left us. I, therefore, with all other reformatory managers, am required by the Home Office to make a return every Christmas of all boys whose sentence has expired within the last three years, with their present residence, occupation, and character ; and thus, by the boy’s actual success in life, rather than by his proficiency in ‘the 3 R’s,’ our success in teaching him is judged. But most of our boys leave us, on licence, a year or two before their sentence has expired, and therefore we have to trace their

course, good or bad, for four or five years after they have left school, and we generally do trace it for far longer.

This makes a difference more important than apparent in the teaching. Both the superintendent, who has the general charge of the training for future life, and the schoolmaster, whose principal care is teaching 'the 3 R's,' are frequently hearing how one boy has got a capital place and kept it; how another has been turned off for unsteadiness or idleness. This being talked over in school, keeps masters and boys in mind that their chief object and end is not the passing a good examination before our inspector (who, by the way, does not come at fixed times when we are prepared to give him a grand reception, but drops in when least expected), but that that same inspector will demand to know each year how the past teaching has succeeded, and that 'the proof of our pudding' will not be its look, but its 'eating.'

Nor is this all. The knowing that the superintendent will visit the parents, or ask some neighbouring clergyman, or squire, or policeman to do so, and that their account will go to all their school fellows and to 'the squire' (i.e. myself), and the chaplain, and the inspector, and the Home Office, and to the Queen herself, if she should ask for it, tends strongly to make both boys and parents anxious to show a good result of that training in steady labour and looking to the future which has been indoctrinated together with 'the 3 R's.'

But when I have suggested this to the educators of the present day, I have been usually told that such a thing may be done with the boys of a reformatory, but could not be carried out in a village school. I will grant that there may be some schools in the heart of London or Manchester, where the population is constantly changing, and where many would be lost sight of, but I will undertake to say that in ninety-nine parishes out of every hundred it would be done with one-tenth of the trouble it gives us. We receive boys, not only from Gloucestershire, but from Lincolnshire, Cornwall, and elsewhere. Some return home, some go to sea, some emigrate. We have to report how one is faring in Canada, another in Shropshire, another in Calcutta or the Mediterranean; yet it very rarely happens that we return

one as 'lost sight of,' and if one is lost one year he usually turns up before the next.

In almost every parish in England the parents of nearly all the boys are at hand for ten years after the boys leave school, and the most minute details of their conduct would be easily traceable. If the schoolmaster were even twice in the year to give a day or two to visit the parents and learn where the boys, and girls, too, are working, and how they are going on, I can hardly believe that such a statement would not be of interest to the inspector at his annual visit, and it possibly might be so even to the Committee of Privy Council, as it need in no degree interfere with the education in 'the 3 R's.'

I believe that there are other suggestions which might be made for the better 'training of boys for after-life,' but I have already trespassed at too great length.

TRAINING FOR AFTER-LIFE.¹ (II.)

IN a former letter I endeavoured to show how we might add to our present system of education a watch on its effects in after-life which might aid us in training men prepared for that struggle, as well as good arithmeticians. Let me now mention another means of the same kind of training which, I think, might do good service, still without really interfering with the study of 'the 3 R's,' which are—rightly, no doubt—considered by the Privy Council to be indispensable. In this question, as in most others, there are seeming contrarieties to be reconciled. The period which the poorer classes can afford to education (in its modern sense) is lamentably too short. Ere the brain is sufficiently matured to take in and retain the more valuable teaching, the boy is required to go on to that sterner task of labour which will probably form his success in life. Nay, there is a strong impression—right or wrong—that if he exercises only his head up to thirteen or fourteen years of age, he will be found wanting in some degree in bodily strength, but still more in the exercise of will for that steady perseverance in continuous

¹ Letter to the editor of *John Bull*, December 23, 1869.

labour by which he must henceforth earn his living. The will and pluck for steady drudging require as much early training as the head and hand for 'the 3 R's.'

The schoolmaster is apt (though far less than was the case thirty years ago) to look forward himself, and even to urge his scholars to look to 'rising in life by their talents to be something better than mere labourers.' As I said in my former letter, I am not afraid of the children being over-educated. On the contrary, I believe that if all ploughmen could read Homer and Euclid, having at the same time a steady training in body and will for hard work, they would be the better ploughmen for it, and would not be puffed up, because they would not feel themselves superior in attainment to others. But the encouraging an expectation that each one who studies hard should rise to something above the degradation of an honest labourer can only lead to disappointment and discontent with the station in which it has pleased God to place him. Our object should be to invite them to strive to be the best possible labourers, and for this purpose, while we cultivate their thinking faculties, not to neglect the body and will. A clever writer on French education (in 'Macmillan's Magazine' of November) has said that in French schools the question was—What can he do? in English schools—What will he be? I would wish to get the latter question more thought of, and to keep strongly before the minds of boys, masters, inspectors, and the Government, the what will he be? of each boy.

Now, how can we—First, Train the body and will from early youth to hard work, yet by gentle degrees, so as not to overtask the young sinews? Secondly, Keep the boy at school till the brain becomes sufficiently firm to retain such knowledge as will fit him for this world (not to say the next)? Thirdly, How can we make him feel that he is not receiving his education as a charity from some munificent patron, but learn to value it as something he has worked for himself? Fourthly, How help the poor parent to forego the two or three shillings a week which would be lost by his remaining at school to twelve years of age? All these appear to me not by any means irreconcilable. Let there be from two to five acres attached to each country school, and an old labourer, past hard work, be engaged at moderate

wages, though higher than he could earn by mere labour; then if a boy comes—as they often do in country places—at four years old, let him pay, say sixpence a week. He has no chance of earning anything, he is a trouble at home, and while so young it is worth fourpence or sixpence to be rid of him. When he is five (dating from his baptism) let him pay—say fourpence. He is then less trouble, and may do a little weeding. When six he might pay twopence, and nothing at seven; but at eight he might have a small plot of garden allotted to him, as much as he can cultivate in his playtime, the produce of which he may sell or take home.

The usual school hours are now about five in the day; quite as long as children under twelve ought to be kept at hard work, but a longer surveillance would be useful for moral training. I would propose to employ seven hours, i.e. four in school and three in the garden for younger children; three in school and four in the garden for the elder. The effect of this would be—First: Every child would commence very early that habit of steady labour on which his success in after-life will probably depend. His strength must not be overtasked, but the earlier he is gently exercised in labour the better he will be prepared for it. Secondly: The income of the school would be much raised. Ten boys will work an acre, and that ought to clear 10*l.* after paying rent, or 1*l.* each instead of 6*s.* 6*d.* Thirdly: The master having them under his eye for seven instead of five hours, and in work as well as in school, can see far more of their characters, correct faults of idleness or passion which a mere schoolmaster would never discover, and in fact could give a tolerable ‘training for life’ instead of merely ‘3 R’s.’ Fourthly: It would facilitate the boys remaining longer at school without unfitting them for bodily work. At present a father cannot but desire another two shillings a week for his family. Is he so very inexcusable? If you, you, sir, have a fortune of 600*l.* or 6,000*l.* a year, and your son be offered a place of 100*l.* or 1,000*l.* a year just as he is going to Oxford, would it not be a temptation? Yet you ask the labourer at twelve shillings a week not only to resist a similar one (though possibly he may not have been educated in a properly inspected Government National School), but to pay twopence a week besides, though you know how they

hate paying money out of pocket. But on the garden plan, a boy of twelve would sell or carry home crops from his own little garden, cultivated in his playtime, to the value of twenty shillings to thirty shillings in the year. This would not reimburse the parent, nor should I wish it to do so; but it would help him, and many a man will do that with a little help which he will not do without. Yet even here you do not give him money, but you enable his son to earn money for him.

Even above all these benefits would be the fact that it would help to stop the cramming system which supposes education—as it is called—to be an end and not a means, which assumes that if a good examination is passed ‘the race is run and the warfare accomplished,’ when all that is really valuable is yet to come. At present a boy is kept at school cramming his head (too young to profit by it, often to bear it) to the utmost, and letting his hands and muscles grow soft and fit for writing. At twelve, eleven, or ten, he is suddenly taken away and set to work for ten hours a day. How can he with blistered hands, wearied muscles, and sleepy head, keep up reading or writing? It is hopeless. After a few years, indeed, his muscles have strengthened, his work comes easier, and he has more time. But by then the habit of mental application is gone, and having ‘finished his education’ some years before, he does not return to it. The sudden break between mental and bodily work is too violent, and he learns to look on them as antagonistic. In a garden school, on the other hand, he would have been used to read and labour together, and his labour not coming on him as an unused thing would not prevent his continuing to read.

But, sir, you will ask, Can this be done or is it only imaginary? I beg to say that some thirty years ago I managed such a school in my own parish. The boys worked well and I think earned, one with another, from ten to twenty shillings a year each for the school, and boys of eleven took home twenty or twenty-five shillings worth of vegetables to their parents in the year. You will ask me why I gave it up. Simply because the schoolmaster with whom I commenced it left me and I could not in those days find one who did not consider digging to be a degradation to ‘an educated man’ (and this opinion made me very tolerant of boys being taken early from such ‘educated men’

and set to work). I tried in vain to find a schoolmaster who was not a greater gentleman than I was. Now the case is different. We have a better class of schoolmasters, more really educated and standing less on dignity, and the system would be easily worked. But I am old and have my hands full of other matters, and can only suggest an idea to the younger and more active.

A college tutor of great experience and good sense once said to me, speaking of a young friend of ours, 'He will make a first-rate man. He took a capital first-class, and hunted two days a week through his reading. Had he given himself wholly to cramming he would probably have passed a still better examination, but he would have been overworked, and must have rested for a time, and by when he was rested he would have forgotten half his cram. Now he will remember what he has got, and will be the wiser for it for life.' Might not a similar plan be tried to make 'cramming' for the army more wholesome? If every candidate were to bring a certificate that he had walked twelve miles in three hours on each weekday for the last six months, and that he had not crammed on Sundays—even if he knew less on the day of his examination, he would know far more on that day twelvemonth, because he would not have been overcrammed, but would have digested what he got. If he could not walk twelve miles, he would not be fit for a soldier.

XI. LABOUR AND WAGES.

LABOURERS' COMBINATIONS AND THE CLERGY.¹

I HAVE read with interest the letter, signed J. Ll. Davies, on Labourers' Combinations. With much that is in it I, and nearly all, will cordially agree. Anything that will 'better the condition' of the labourer—if it do so permanently—must have our warm sympathy, and certainly 'no fear of offending the landowner or farmer ought to restrain the expression of clerical (or lay) sympathy with the labourer.' Neither have I any right to object to 'agitators.' I have, in my time, aided in bringing forward several new ideas; I have aided in pressing them on the perhaps unwilling attention of others; and I have had the great happiness of seeing them, after long time, bear good fruit. This may be called agitating; but it behoves an agitator to look most carefully on both sides of any question he takes up, to be sure that the good he tries to obtain is likely to be a tolerably permanent benefit, and not a momentary advantage or mere triumph—that he seeks the good of others and not his own advancement—and that he carries his point by appealing to the reason and not to the feelings or passions of his audience. I agree, also, that the agitators in the labourers' strikes are far more reasonable than those who have misled the artisans. They have avoided that most pernicious doctrine that all men should be paid alike, whether they are good workmen or bad; that all work should be paid by the day or hour, not by piecework; that all motive for a man to do his utmost should be taken away; and

¹ Letter to the editor of *The Guardian*, April 19, 1872.

that the best should be dwarfed down to the average. I heartily congratulate the agricultural agitators on their good sense in avoiding these errors.

But if I agree in many points, I fear I must differ with him in more. He says, 'It is sickening to read the reports of the wages, food, housing, and pleasures of the labouring classes.' Forgive me, Mr. Editor, if I remind you and him that reports are not infallible. A reporter, whether for Parliament or for the press, is seldom able to spend a long time in the country inquiring closely into his subject, and studying the very depth instead of the superficialities. It is almost inevitable, too, that he should wish to make his report one worth having—i.e. that he should interest, not to say startle, his readers. I have read many of these reports of the agricultural poor, and I have no reason to believe that any one of them was untrue; but I do believe them to be generally taken from some peculiarly unhappy parishes, and that the statements were, though probably unintentionally, unfairly given.

If you ask what are the wages generally given in a parish, the sum may sound low, though it is nearly double what labourers lived on forty years ago; but the other circumstances—allowances, rent, &c.—are seldom taken into the calculation. I know that the allowances are much objected to, and the cider truck system is quoted as a great cruelty. But what is the fact? I know that many farmers in my own parish have for many years been trying to persuade the labourers to take money instead of cider. The labourers have refused, and the farmers have given way and continued the cider. I have always thought the labourers were right. If, indeed, there were a reasonable hope that the labourers would have broken through the habit of drinking large quantities of weak fluid, I should have been much in favour of pressing them to do it. I myself did break through such a habit nearly forty years ago, and have been much the better for it ever since; but I remember well the great pain and privation endured in the struggle, and I have little hope of the average labourer carrying it out. If they are to have the cider (which, though a gentleman from London may not relish it, is the liquor which from habit and inclination they require) they must purchase it from the public-house, where they will

get a probably worse and certainly far dearer article, as well as be tempted to take 'just a little and a little more.'

Another matter not usually taken into account is house rent. In most of the agricultural neighbourhoods a four-roomed cottage with twenty perches of land lets for 5*l.* In London, Liverpool, or Manchester, I have seldom met with a two-roomed lodging (of course without garden) which is to be had under 13*l.* a year. In very many parishes a sufficiency of allotment can be rented to make the garden up to a quarter of an acre. If these advantages are added to the wages, it will be found that the poor agricultural labourer on his miserable twelve or thirteen shillings a week is considerably better off than thriving mechanics on 1*l.* a week.

Still, though I would wish the labourer and the public to see things as they really are, and not as they appear to the superficial observer, I fully allow that if he can make his state better, without danger of making it worse in the end, he is quite right to do so. As Mr. Davies says, our sympathies would naturally be rather with the poor labourer than with the comparatively well-to-do farmer. But what is the real case? A prudent man will not go into business unless he can get a percentage on his capital equivalent to the risk and the toil, *minus* the pleasures, of his employment. A farmer ought, nowadays, to make 10 per cent. on his capital, out of which must be taken his house rent, living, and all expenses before he begins to lay by against a bad time. I think it can hardly be expected that men should farm on a lower interest. I think I am not far out in stating a case thus: A farmer with 2,000*l.* capital will take a farm of 500*l.* rent and employ ten men: his profits ought to be 200*l.* a year for himself and his family to live on; but if he raises the wages of his ten men by three shillings a week it will take off 78*l.*, or nearly one-half, from his income of 200*l.* a year.

The farmer is as justly entitled to look to his own interest as the labourer is; and he will say, 'My men have higher wages; they ought to be better fed; they ought to do more work. I can do with a smaller number of them. I will take the advice of the wise business men; I will keep the best, and turn off the old and weak.' Is that a result that Mr. Davies would contemplate with satisfaction? Yet if you call upon the labourer and

the clergyman to throw off all consideration for the farmer, can you expect him to retain his consideration for the labourer? But Mr. Davies says that 'prices will rise with increased cost of production.' Is that a result which he contemplates with satisfaction? It is true that the loss will fall 'only on the public.' But does it not occur to Mr. Davies that the public means the poor; and that if a burden is tried to be shifted from one shoulder to the other, it is a grievous mistake to think that it becomes lighter in the process?

But suppose Mr. Davies has gained his point, and got the young, strong labourer employed at high wages, and the old men turned off. Will not—must not—two old men come to the farmer, and say, 'We can do more work than one young man, and we will work for one young man's wages;' and will not the farmer take their offer and turn off a young man, and will he not then say, 'I will turn off the man who refuses to work for 3s. less'? And will not thus the whole rate of wages be inevitably brought back to their level? During a time of extraordinary commercial activity like the present men are at a premium, and may demand their price; but I trust that they may not be tempted to overstrain their short-lived power, and to weaken the mutual kindly feeling between themselves and their employers. Hard times have been, and hard times will come again, when if the farmer turned off every labourer it did not pay him to keep, and lowered his wages to the utmost, it would be hard indeed upon the labourer. I fear that any who like our present agitators (though probably not with ill intention, but from not having studied the effects of what they are doing) set an example, as Mr. Davies says, 'of standing by one another, of forming plans of common defence, and encouraging them not to succumb to employers'—in other words, of encouraging the labouring class when they get the chance to drive the hardest possible bargain with their antagonist employers,—will find that they have been the leaders of a fearful error. I grant that circumstances differ in different parts of England. I have no doubt that some farmers are hard, and take every advantage they can of their men; but I utterly deny that a crusade against farmers in general is a wise, or just, or profitable measure. I know where to find labourers who are idle, shirking, dishonest,

and drunken. But if I were to go round the country calling on all farmers to unite together to prevent such rascals from cheating them, and to form a league against the labourers to get the most work out of them at the least pay at a time when men were plenty and employment scarce, would not you, Mr. Editor, and your correspondent, and every other honest man say that though I might be doing it from a mistake, and though I might be in reality well-intentioned, yet that I was doing abominable mischief, and that I had no right to commence such an action without considering its consequences?

I am old enough to remember the strikes before 1820. Clothiers struck because they would not have their pay lowered from 40s. per week. I saw the masters break and the men reduced to 30s., 20s., 15s., and 7s. The poor-rate in 1830 was 18s. in the pound on the fair value of the land, and the misery was such as, thank God, I have never seen elsewhere in England. Many years afterwards, when they got very much better, I employed many of those men in making paths through my woods or other unprofitable work, at 7s. a week for the winter. Such were the consequences of a strike—a successful strike for many years. Is the misery of the East-end of London quite forgotten? And was not that caused by a similar endeavour to get the highest possible wages for the moment?

But I have said enough on a lamentable subject to at least excuse my venturing to differ with Mr. Davies, when he considers that 'Labourers' Combinations' tend to the more than momentary good of the labourer.

But we are told on all sides that the labourer should be made 'independent.' This is a grand-sounding word, but what does it mean? If he enters a strike union, has he liberty to work for whom, or at what wages, he likes? Is he not bound to refuse to speak to 'a black leg,' though he be his own brother? He may be independent of the farmer, but he is the veriest of slaves to his union tyrants.

Independence is often talked of as a blessing, but we may easily have too much of it. The only really independent state that I know is that of a man with 300*l.* per annum in the Funds, who acknowledges no duties or friends. Duties or friends, still more a wife or family, ruin all independence.

But I would not wish my worst enemy, if I had such a thing, to be independent on this wise.

Is the clergyman, then, to despair of helping the labourer? By no means. If he looks fairly through his parish he will probably find that many have laid by money, and those probably not the strongest or the least burdened. Let him encourage the rest to do likewise. Let him not try to separate the interests of the two classes who must depend on each other, but on the contrary to unite them. Let him try to persuade the farmer to employ his men by piecework, thus retaining employment for the old and weak, and to adopt more or less the co-operative system by paying his workmen somewhat more when by extra careful work an extra good crop is obtained, more lambs saved, and beasts more quickly fattened. If he choose to read a six-penny pamphlet by Sir Baldwyn Leighton just published by Bentley, entitled 'The Labourer of 1872,' I think he will see more safe and permanent methods of benefiting the labourer than by combinations against the farmers.

LABOUR AND WAGES.¹

YOUR article on the agricultural labourer has much in it that is saddening, yet I fear that it leaves much to be said that ought to be brought home to the minds of the labourers with all gentleness, but with more clearness and force than I am master of. I heartily wish that some of your correspondents would take it up.

The labourers, not only agricultural, but of all trades, have been for some time told that their masters were making large profits; that they had a right to a larger share of those profits, and that they had only to use a certain amount of pressure and they would gain that larger share; and if they made the foreigners pay more for their goods, why so much the better; 'if they choose to have our goods, let them pay a good price and let us have the benefit.' Such was the cry, and let us not

¹ Letter to the editor of the *Wills and Gloucestershire Standard*, June 10, 1875.

blame the labourer if he took it up. He was not educated to understand the laws of nature, of supply and demand, or the products or resources of foreign countries, and alas! some who had education and who ought to have known better, either from want of consideration or possibly from a wish to head a great movement, led them on into the evil they ought to have foreseen. Alas! the working man did only what all human beings are inclined to do. When he was told that combination and clamour would raise his wages he believed it, as we all are apt to believe readily things that are pleasant. When he found his wages rise, of course he thought that a little more combination, a little more clamour, a little more pressure would make them rise higher, and so on to any conceivable amount. After a time all his bright hopes seem to be turning to anxious doubts. The masters, he cannot tell how or why, appear to have got the upper hand. Wages are being reduced, the masters don't seem to care for a strike, the great agitators who were to have led them on to victory and permanent high wages, and some of whom had received much political capital, others much hard cash, are all quarrelling amongst themselves, and the working man feels that somebody must have injured him and that he is hurt and ill-used, and he supposes it must be by the masters.

Let us see whether we cannot give an explanation which may show that the matter is very clear, that no one, except indeed the agitators, has dealt unfairly with the labourer, but that what has happened was only the natural consequence of the unwise course into which he has been led.

England has been for very long 'the workshop of the world.' Woollen, cotton, iron, coal, all went from England to all parts of the world. Why was this? Because we had a race of great energy and a very dense population. They strove against each other which should work the hardest, and the weak or idle had a hard time of it, and the strong and industrious rose to wealth. The agitators talked as if the rich and the poor were different races, forgetting how many of the very rich of the present day had working men for their grandfathers, who honourably raised themselves to wealth, but, being energetic and closely packed, they generally worked hard and for low wages. Of course they were able to sell their woollens, cottons, &c., more cheaply than

other nations less energetic and less crowded, who either demanded higher wages, or more often worked less hard. Of course all civilised nations came to us for goods. Of course we were the workshop of the world. Does not every wise labourer go to the shop that sells him a good commodity at the cheapest rate? And will not nations do the same? And so we had plenty of work and sufficient wages to support our dense population. The quantity of woollen, cotton, and iron used by England would not have employed half our men, but a large foreign demand, caused by our cheap work, the consequence of low wages, kept all employed and moderately paid.

We had indeed occasional troubles. Let me recall one of them. During the long continental war fifty or sixty years ago, prices and wages were much higher than they have lately been. Much was then said of the great benefit that would accrue when the war should cease and the prices of the necessities of life should be lowered, but those who urged this forgot to say that the lowering of prices would entail a lowering of wages. In our own neighbourhood, the West of England fine cloth had a world-wide reputation. Our exports to Russia and America were enormous for those days, and our clothiers were making fortunes besides paying good wages to all who would work. The Yorkshire men in those days worked for less, but they only made coarse cloth, and were not feared as competitors. After a time the war ceased, and wheat and all commodities fell in price. The masters proposed to lower the wages, but the men refused to work for less—in fact they ‘struck,’ though the word was not then invented—and the masters gave way and continued to employ them at a loss to themselves, hoping for better times, but the Yorkshire men took to making fine cloth at their lower wages; the foreigners no longer harassed by war took to manufactures, and refused to give us the former high prices. The masters of the West of England could not give high wages and sell cheaply, and so lost their custom; some gave up, some failed, and a large population who had lived on foreign trade were left destitute, and terrible was that destitution. Had the men seen the altered circumstances and allowed their wages to be at once reduced to a level with those of Yorkshire, the masters might have retained a considerable hold on

the market. Few people like to leave an old-established shop unless they find another a good deal cheaper, but when they once leave a shop they seldom return to it.

I write this to you because most of your readers know, or can easily find out, whether I am wrong or not. Any old man in the valleys of Gloucestershire or Somerset will be able to remember the facts only too sadly, or a ride through any of those valleys will show numbers of mills where formerly the finest cloth in the world was made by a great number of highly skilled hands, now a very few making fine cloth at half the former price, far more making the cheaper kinds of woollens, but by far the greater number turned to sawmills or tumbling down.

The distress affected but a small portion of England, and some of the workmen emigrated to America, some migrated to Yorkshire and elsewhere, but too many remained and lived on at terribly low wages, and for thirty years those parishes were poor, far beyond the average of England.

But what has this long old story to do with the present state of England? you may ask. Much, because that which has happened to one trade in a small part of England may, under like circumstances, happen to many trades in a larger district.

England, driven on by the energy of its race and by the competition of its numbers of inhabitants, which caused low wages and cheap work, excelled all other nations, and became the workshop of the world. It has been often said that we owed our supremacy to our coal and iron, but it has long been known to many, and facts have since proved, that other countries possessed a far more abundant supply than we had, only they did not work them. America has coal fields far wider than ours, and nearer the surface, and more easily and cheaply worked, but the population was thin, the wages were very high. It takes much money and much time to sink pits before they begin to pay at all, and they preferred work above ground, which gave a quicker return, and they purchased our iron, which was wrought with our coal, so long as they could get it cheaply. I only name America as one country, but nearly all countries did the same, and we supplied all the world with machinery.

Some years ago, however, there came a great increase of commercial activity. All nations wanted more machinery, and

all came to us for it. Our manufacturers could not supply all that was wanted, because they could not get workmen enough. They raised their prices to the consumers, and they raised their wages to attract more workmen. The young men among our agricultural labourers went off to coal pits, iron works, railroads, and other highly paid business. This left a scant supply of men for our fields, and farm wages rose. All this was natural and right, and we could only be thankful for our increased prosperity.

But then arose a set of men called agitators. Agitation may be a good or a bad thing, according as it is fairly or unfairly used, and for a good or a bad object. This agitation was unfair in its means, setting class against class, declaring that all classes except the labourers were cruel and dishonest, and openly recommending 'midnight surprises by beacon fires from one end of England to the other,' or 'the tumbling a few landlords' on the Irish plan, if their demands were not complied with. I fear, too, that the object, i.e. the raising the wages, will turn out to be far more disastrous than the threats and abuse which no one much cared for.

No doubt the threats of striking, made by an organised body against individual masters, had the effect of raising wages for a time throughout England. What is the consequence? The manufacturers were obliged to raise their prices. What did their foreign customers do then? Why, exactly the same that any labourer, or that you or I, should do if our baker suddenly doubled the price of his bread. We should not go without bread, but we should use as little as we could, and if we could not find another more reasonable shop we should try to put up an oven and bake at home. While the oven was building we should pay the high price. Until we had got thoroughly into the way of using it we might send to the shop when we wanted extra fine bread, but when we had got into practice we should go no more to the shop, and the baker would have lost his custom and must turn off his men.

This, I fear, is what is happening now to our coal and iron trade. The Americans and others have found coal and iron at a far less depth than ours, and their orders to us are rapidly decreasing. Two years ago our masters had more orders than

they could take, and the threat of a strike was a fearful sound. Now they have more goods on hand than they can dispose of, and it has been stated that the termination of the South Wales strike, even though at a large reduction of wages, has not 'beneficially affected the trade.' Masters cannot employ their hands if they cannot sell their goods. More reductions must probably be made ere long, and every struggle that is made against lower prices only drives the foreigner to perfect his own manufacture and use ours the less. Then, probably, must come a diminution of employment and a reduction of the number of hands. First, many of the young labourers who only left a few years ago will be sent back to us. But their absence and the high wages have taught the farmers to use more machinery and fewer hands, and if they get employ at all I fear it will be at low wages, and a strike is utterly useless when men are poor and work is scarce.

I heard last year some Englishmen chaffing an American on his nation having adopted protection—a system found to be useless and bad. The American smoked quietly till they had done, and then replied, 'Protection is a bad thing for adults, but infants need it for a time. Our manufactures are in their infancy. As you rightly say, our protection makes our goods dear, and prevents our competing in the market of the world. Wait till our manufactures are strong. Then we'll take off the protection and come into the market of the world and beat you out of it.' Only an American brag, but a good one. I have been called a Cassandra, or a bird of ill omen, for saying this. Such is not my general character, and I have been for many years laughed at for being so sanguine in other matters. I shall be only too thankful to find myself as wrong in my fears as I have been right in my hopes. And, in truth, I have no great fear of so heavy a failure as appears at first sight likely. I have great faith in the indomitable pluck and energy of our nation, and though we have lost much of our trade and of the employment of our men, yet I have little doubt that new fields of enterprise and work will open to us, as an enthusiastic young friend of mind said the other day when he allowed that henceforth we may probably get coal and iron cheaper from abroad than in England; and I said that would be bad for us. 'No,' said he, 'it will be better for the

world, and as England is the essence of the world it must be better for England.' While partly agreeing with him, I trust that when we develop new industries we may not throw them away as we have done our old ones.

DISTRESS IN THE FOREST OF DEAN.¹

I HAVE seen and heard of late many distressing accounts of the sad poverty existing in the Forest of Dean. Alas! I can well believe it, as in the course of a somewhat long life I have seen similar cases of poverty arising, as I fear, from the same causes. These causes were truly and happily described in a letter in your paper of some three weeks ago by Mr. Nicholson, with whom though I may not agree in other subjects, I do most heartily in this. He described them as, first, the mischievous interference between employers and employed, infringing upon the freedom of contract between capital and labour. Secondly, the consequent decrease of production and increase of the cost. Thirdly, the inevitable decrease of consumption, the stagnation of trade, and the collapse of the demand for labour; or, in other words, first, strikes; second, high wages and consequent high prices for goods; and third, the customers falling off and the goods left unpurchased. Nothing can be clearer than the fact that when the two first are carried too far, the third state, with its misery and destitution, must inevitably follow. I can well remember the strike of the cloth workers in the Stroud and Dursley valleys, when I was a boy, I think about 1816. The consequences came slowly but all the more severely, and the misery in 1830 was terrible. I remember in late years the strikes of the iron ship builders on the Thames, which drove away the trade to the Tyne and the Clyde (which now the workmen of those rivers seem but too likely to drive elsewhere by the same means). Now here, again, it is not only in the Forest, but through all the manufacturing parts of the country, the sad consequences of the same causes are more or less going on, and I cannot but fear that our trade has been so far driven from us that we are un-

¹ Letter to the editor of the *Gloucester Journal*, November 24, 1877.

likely ever to see again the degree of prosperity that we have known.

Do not imagine, sir, that I am saying this in order to blunt compassion for the poor fellows who are now suffering. They have been grievously and cruelly misled. How can we blame an uneducated labourer, when he is told that striking will raise his wages, and when he sees it does so, if he believes that it must be a good thing? Not only the uneducated, but the educated holders of Russian and Turkish bonds, were too ready to believe that a high rate of interest would be lasting. Even many of the leaders of the strikes, I believe, really thought that they were doing good to their fellow-labourers at the same time that they were making a profitable speculation for themselves. If there were any of the educated classes who were able to calculate the probabilities, but yet encourage the strikes in order to gain for the time the goodwill of working men—may God forgive them!

But the question is not now who was to blame, but what is the best course in the present difficulty; and here again we may look back to similar crises in former days. In Uley in 1830 there was a very large population of men with soft hands and weak frames, used only to handling woollen yarn, and not a single mill at work, nor a piece of cloth to be woven. They declared that they could not and would not work at any other work than cloth making, and they would not leave the parish so long as their miserable pay was doled out to them. Here the workhouse test came as an apparently stern but really kind means of inducing them to leave the country. We sent many to Yorkshire, many to Canada and America, and the misery lessened by slow degrees, but the trade never returned. (I trust that those who live many years hence may not say the same of many of our English industries.) In the case of the Thames ship-builders, in Whitechapel, St. George's-in-the-East, &c., the men were as usual left destitute and in want. Kind friends wrote to the 'Times' and to the Lord Mayor, the hardships were strongly felt, and subscriptions flowed in to an almost incredible amount. But, alas! in those days there was no charity organisation at all, and such numbers of roughs flowed in to the distressed parishes in order to share in the doles given out, that house rent in the distressed parts rose considerably. This, of

course, was discovered, and subscriptions fell off, and then came, as usual, the real distress, with none to help, at least in the way of doles. Some earnest workers, however, Denison, Holland, Leighton, Bosanquet, and many others, took a better means than doles, and went among them and arranged to send many to the Tyne and Clyde; but, alas! even of these many came back, being, as their employers said, so demoralised by living on charity that they could not do a fair day's work.

The experience of these cases would clearly prove that emigration was the remedy for such a case, but here, I take it, comes the peculiar difficulty of the Forest. I remember many years ago talking with a friend who maintained that they never would be troubled with strikes in the Forest, because so large a proportion of the workmen had freeholds of their own. In my ignorance I replied that that would surely make them more independent, and therefore better able to stand against their masters than if they were mere renters. 'Not so,' said my friend. 'If I employ a stranger lodging here, and he behaves ill to me, and I turn him off, he goes to Staffordshire, Wales, or elsewhere, and finds work directly; but a freeholder is *adscriptus glebæ*, tied to the land. He would as soon leave his skin behind him as his freehold, and if he is known to have behaved ill, no manufacturer will employ him at 2*l.* 2*s.*—he must work for a farmer at 12*s.*'

As it turned out, however, my friend was wrong. There came the fatally prosperous days when all the world was coming to England for goods, when prices rose much from the demand for goods, and wages rose from the demand for men. Had our men been content with this and worked well, and saved a fair share of their money, the wealth of England would have been enormous; but the fatal grasping for more has lost not only the money which should have been earned during the strike, but has lost our custom and means of making money for the future.

It was a sad temptation to all. Masters saw that they could make good profits if they could get men enough, even at high wages, to take advantage of the extraordinary demand of those days. Numbers of young farm labourers were naturally tempted by the high wages, and left the fields and went to the pits. The older labourers, indeed, were tied to their work by their

families as the Foresters are tied by their freeholds, but they were hardly sufficient to work the land, and farm wages rose greatly. So far all was fair and prosperous to all except to farmers and landlords, but then came the strikes; the men, having already got much, tried to get more, lost thousands in the struggle, and bred ill-will between themselves and their masters, and raised the price of their production to a ruinous height. The consequence was natural. There was, indeed, no sudden cessation of trade. If your baker, sir, were to double the price of his bread, you would not go without bread, but you would give him the high price for a short time till you could find another baker who would serve you cheaper, or till you could put up an oven for yourself. The Americans have taken the latter course. They have dug pits, and found coal and iron at sixty fathoms where we have to go a hundred and sixty, and now they are not likely to come to us again. The consequences are very sad, but they must be faced and fully considered. All classes are suffering. To take one very small instance: in 1876 there were above 40,000 fewer licences taken out for men-servants than in 1875, and I fear that 1877 will show even a larger decrease. This is in itself a small matter; but it shows that among servants one man in every six has lost his place, and it shows that the rich are less rich than they were, and less able than they were to employ or help the poor, and when the same thing is occurring in most kinds of work it becomes a fearfully serious thing.

But to return to the Forest. The freeholders, indeed, could not have struck, but the numbers of new men were not so bound, and the same misfortune has come on the Forest as elsewhere. The men who were tempted from the fields naturally disliked extremely to give up their high hopes and go back to their old work on the farms; yet there is at present room for a good many at fair farm wages, which are greatly above starvation. Many have come back already, and the fields are now fairly supplied with workmen; but it must be remembered that, during the time when labourers were scarce, farmers were obliged to take to machinery, and they do not want now as many men as they formerly employed; and I cannot but fear that we are likely ere long to have many men looking after one master even at lamentably low wages. Still, the sooner men will realise this, and will

struggle out to find work wherever and at whatever price they can get it, the less will be the distress. As Mr. Nicholson has well said, the strikes and high wages have brought us into our present perilous position, and 'unless these steps are retraced they will lead us on to general desolation.' The way to retrace these steps is to struggle on to find work, wherever it may be had, even at lower prices, and not to trust to doles of charity, which can be forthcoming but for a time.

Rich and poor are suffering from trying to be too rich. It is very unpleasant for either to draw back and economise, but the sooner we begin the less severe will be the pinch.

THE MULTIPLICATION OF YEOMEN.¹

A LETTER in your columns of March 7 from Sir William Marling urges what is often put forward as an unquestionable statement—that 'the land is in the hands of too few owners,' and advocates 'the multiplication of yeomen and freeholders.' I am quite sure that Sir William urges this with the kindest intention towards the future yeomen and freeholders, but I would ask him to consider whether, without at least some precautions, which I think he has not suggested, a freehold might not prove less of an unmixed benefit than he would wish.

I know well the pleasure and the pride a man feels in the possession of land—in the being able to say, 'Oh, it's a small place, sir, but then it's my own.' And if he has steadily saved some of his income and has a fair sum in hand in case of any accidental calls, or of bad times, which we are apt not to think of till they come upon us, he is a proud and a happy man. He has a far smaller income than the renting farmer with the same capital, but then he has the great luxury—for such it certainly is to most men—of feeling the possession of land. Such cases as this I join with Sir William in saying that I should be glad to see multiplied to a considerable extent.

But there is another side to the shield which must not be

¹ Letter to the editor of the *Gloucester Journal*, March 17, 1885.

ignored. Suppose that the yeoman's father, during two or three years of bad crops or low prices, got a little behindhand, or that he himself in his youth had been just a little free, and had need of some ready money. Some kind gentleman in the next town would readily lend it on moderate interest and just a little premium till he can save up money to pay it off. The affair is strictly secret, and his neighbours expect him to live as he did before, though his means are less, and though he ought to save money to clear himself. Such cases, alas! are not uncommon, and what proportion of those who are once mortgaged ever clear themselves? Some, of course, do, but I fear the number is small.

Then comes a sad time. The farm still is his own—in name—but he has to pay more in interest than he would have paid in rent, and he has to do all repairs or leave them undone. If crops fail, or cattle die, a landlord sometimes makes a throw back, but the kind gentleman who lent the money knows nothing of crops or cattle. The poor man still keeps up the name of being a landed proprietor, but he not only starves, but he sees his land gradually slipping from him, and is only rather better off when it is gone and he finds himself a labourer. If I had an enemy (I don't think I have), I would not wish him so hard a lot as that of a mortgaged yeoman.

If we could take a census of the yeomen of England and could ascertain their state, what proportion should we find mortgaged and what share free? I used to know many yeomen. I know few now. I cannot myself advocate the multiplication of yeomen farms till mortgages on small properties are made illegal. (Would that we could get the same measure for large ones too!)

The cottage freeholder much resembles the yeoman. If he is exceptionally prudent and saving, he is a proud and happy man, and I should gladly see—let us say half—the cottages of a parish freehold, if we could insure the owners being of the right kind—which would be difficult. But here, too, there are some points which ought to be remembered, but are often overlooked.

Nearly twenty years ago I met a friend of what are called strong Liberal opinions, and asked him whether the workmen

in his neighbourhood were striking for higher wages. He replied, 'No; my workmen won't strike; they all have freehold cottages.' In my ignorance I said, 'Why should that prevent their striking? They are independent men—you can't turn them out, and they can do as they please, unless indeed they are mortgaged.' My friend replied, 'They are all mortgaged, and I have bought up their mortgages to prevent their being ill-treated. They pay me in interest as much as they would pay for rent, but they call the cottages their own, and nothing would induce them to leave them. I pay them about two guineas a week for their work. If they were to strike they must work for the farmers at twelve shillings a week. If they had no freeholds they could go elsewhere and get two guineas, but they are *adscripti glebæ*—chained to the soil—and would as soon leave their skins behind as their freeholds; so we go on together very comfortably.' 'Thank you,' said I. 'You have opened my eyes; I now see that a freehold cottage is the finest engine of tyranny and oppression possible.' 'Exactly so,' said my friend, 'and a benevolent tyranny is an excellent thing.' I agreed with him, but I thought that this view was different from that usually taken by the advocates of freehold cottages.

My friend, however, was wrong in his calculation. An exceedingly 'good time' came, and he took on a large number of additional hands—not freeholders. These struck and wages were greatly raised. As usually happens, work after a time became very slack; the additional hands went elsewhere, and the poor freeholders were left with their cottages, but with very little bread.

I fear I have given a somewhat different view of yeomen and freeholders from that which Lord Derby and Sir William Marling have taken, but it is worth while to consider which of the two views is more commonly the true one.

XII.

PRISON GOVERNMENT.

*MR. CROSS'S BILL.*¹

I WROTE to you last week my first somewhat hasty impressions on this matter ; I have since had more time to consider it, and I must say that my objections are by no means less strong for the consideration. I have met with many who approve of the Bill. I may be quite wrong, and I heartily trust that I may turn out to be so ; but so important a step is worth considering ere we rush into it blindly.

There is no doubt that the Bill will effect some good reforms that were much needed. It will save this county 3,287*l.* 8*s.* 9*d.* a year, nearly equal to a halfpenny in the pound (a halfpenny rate brings 3,598*l.* 6*s.* 8*d.*). It will shut up a large number of gaols which are too small to be well managed. The remaining prisons will be better organised, and much fuller (I only trust that they also may become less full under the new rule, as they certainly would have done under the old one). These things will be a decided improvement ; but what price are we to pay for them ?

Hitherto our freedom, our local government, our absence of centralisation, has been our great pride and the envy of other countries. While elsewhere centralisation and bureaucracy were the rule, in this country much has been left to the unpaid inhabitants of the district. We required indeed, and had, a certain number of officials working with us, and generally preventing any considerable irregularities, such as are always liable to arise in all free institutions. I hope I may be forgiven if I cite one case which I have watched closely—namely, that of the reforma-

¹ Letter to the editor of the *Gloucestershire Chronicle*, June 12, 1876.

tories. No doubt many of us would have run into eccentricities and errors had it not been for the kind advice and reasoning of our inspector. Yet we worked freely, and as only free institutions can work, and I believe nobody supposes that a regular Government institution would have done the work better. Whether it was that the Inspectors of Prisons were too few in number, or had less power entrusted to them, or were not sufficiently listened to by the Home Office, I cannot tell, but it has always seemed to me an extraordinary thing that the office having all power in its hand, and one would suppose ample means of information, has allowed the very small prisons to exist for so long without taking the smallest notice or attempting to urge the slightest reform. Having, however, at length opened its eyes, it proceeds to make up for past inattention by placing the whole management in strictly official Government hands, turning off the justices, not merely of the offending gaols, but of all the gaols of England at once, and commencing a system which has hitherto been the abomination of most Englishmen.

It is true that the management of the prison is a comparatively slight affair, but what are we to expect? Four or five decidedly small gaols are held to be a reason for an entire and un-English change of management. The next step must be of course the police, and with greater reason than the prisons, for there are a very great number of very small police bodies interfering with the general work of the larger bodies, and who much require to be amalgamated. They, therefore, I suppose, will be put under another board of officials, and will become exactly like the *gendarmes* of France or the police of other countries. I have no personal knowledge of these bodies, but from what my foreign friends tell me the prospect is by no means pleasant. As I said last week, they certainly do not appear successful in diminishing crime, while by all accounts they are neither loved nor trusted by the honest.

Having gone so far, our Government can scarcely avoid going a step further and disestablishing the county justices and establishing a large force of stipendiary magistrates; and then, as there is much variance found in the management of boards of guardians, a staff of paid chairmen will probably be sent down to preside at the boards. They will probably follow the wishes

of the guardians if they think them right, and if not they will take their own line.

There is indeed no saying to what an extreme of good paternal management we may arrive in time. Many people have long complained that our land is not well cultivated. There is certainly no grand system of uniformity. The light lands and the heavy lands are farmed on every different principles. Why should we not have a Chairman and a Board of Agriculture who shall lay down a perfect and uniform system for the farming of all lands, with an inspector of every parish to see that the system is properly carried out? You will say perhaps that this is going too far—farther than our foreign friends have gone; but when a country which has for many centuries been proud of its free institutions suddenly becomes enamoured of a paternal bureaucracy, it may be expected to go a step or two beyond countries that have never known self-government.

But you will say, why should not all this be a good thing? We don't care who governs; we only want the government to be as good as possible; and why should not a set of men chosen as being fit for the work, and giving up their whole time to it, do better than a large number of mere amateurs who have many other kinds of business to attend to? If it is the case that crime has decreased faster in this country under unpaid justices than in most others where stipendiary magistrates are employed (I am aware that Ireland will be quoted against me, but I think that there are other peculiar disturbing elements to be taken into that calculation), and if our prisons have set the example to all other countries, we must ask why should it be the case?

I think that this may be shown without any imputation on the gentlemen who are to succeed us. A man who is tied down to six or eight hours a day of official routine work has little leisure for more thought on the subject. An official gentleman who is paid for his work is expected to do as much regular work as he can; but improvements are necessarily irregular work, and he has no time for them. Again, he is expected to be perfectly wise, and any novelty which he proposes must at least be proved to be a success, whether it be so or no. The poor unpaid justices had some liberty of trying different experi-

ments, and if they failed we were blamed, and if they succeeded we got few thanks, but we were amply paid by seeing the success; but an official board, claiming infallibility, and acting on a grand uniform system, scarcely dare attempt improvements. If John Howard and Sir George Paul had been well-paid and hard-worked officials, I doubt if we should have been so forward in the work as we are now.

A friend said to me the other day, 'It is true that an official board is not likely to improve the system after they have once got it into work, but there is no reason to fear that they will give up any of the improvements that have been made, and we are very well as we are, and why should we seek for more?' Now, this is exactly what I cannot feel. I am certain that crime might be reduced very much lower than it is at present. I am sure that a little care and attention and the passing of one or two very small measures would in a few years close half or more of the gaols which Mr. Cross's measure will leave in action. It will be said that I am very absurdly sanguine, but for twenty-five years I have been thought absurdly sanguine, and yet my prophecies have only been wrong because I was not sanguine enough. I heartily trust that in one point I may be proved entirely wrong, and that our successors may find time, thought, and energy to carry out the works which we had in prospect, and as many more as they can.

It may probably be urged that I and those who feel with me are anxious to retain the work in our own hands, either as an amusement or from an idea of the consequence it may impart. I cannot charge myself or my brother justices with any such feeling. As soon as our crime had lessened for a sufficient length of time to render the measure tolerably safe, we closed one after another six out of our seven gaols, without—so far as I remember—one word of remonstrance or objection from any one of the Visiting Justices, while for my own part I have for above fifteen years been urging that boys under fifteen, or at any rate fourteen, should not be sent to reformatories without special permission in each case by the Home Office. This measure would probably have lowered the numbers detained in reformatories by nearly one-half, and would have saved the country 50,000*l.* or so a year, and probably my own would have

been one of the first to close. Indeed, I should have thought it fair that, as we were the first of the county reformatories to begin work, we should be the first to give up when we were no longer required for the public service; but I should have strongly remonstrated against their being put under Government management, simply because as I believe throughout the world private management is found to succeed, and State management not to do so well. Mr. Cross appears by a circular he sent us to intend some step in this direction, and, if so, I shall be quite ready to close my reformatory when it is no longer necessary.

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